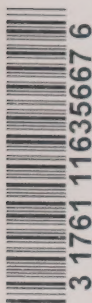
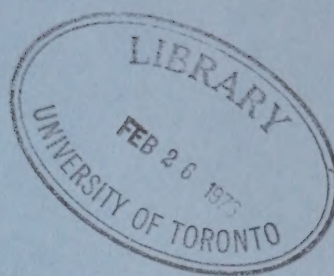


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APPENDIX 1

Trust Business in Canada

A symposium on the functions and operations
of Canadian trust companies submitted as an
appendix to the Brief of the Trust Companies
Association of Canada

Canada

Royal Commission on Banking and
Finance

Trust Business in Canada

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TRUST BUSINESS IN CANADA

Section I - The Trustee Corporation

(a) Nature, Powers and Functions

- 1.01 Some thirty trust companies, at more than 200 offices across Canada, manage over eight billion dollars worth of property and investments held for nearly one hundred thousand individual estates and other accounts. They hold 1.4 billion dollars of savings of Canadians for investment. They protect the holders of the funded debt of Canadian business and industry and record the ownership of the share capital of most Canadian public companies. What is a trust company, and how does it operate?
- 1.02 A trust is a legal relationship. Its characteristic form finds the legal title and possession of property vested in a trustee who is in a position to deal with the property as his own, although the beneficial ownership belongs to others -- the beneficiaries of the trust. Thus, A pays a sum of money to a trustee to be invested as the trustee may choose, the income and as much of the capital as required to be used to maintain B, a retarded child of A. B is provided for, whatever happens in the future to A or to his financial status. A has no further right or interest in the fund nor any control over the trustee. (It is also provided that anything remaining at B's death will go to B's children or, if none, to A's other issue.)
- 1.03 A trust is obviously a unique relationship and it demands, of the trustee, a standard of integrity, skill and financial responsibility unique in law and in business practice. There are many maxims of equity and rules of law which define these standards. A trustee may not himself acquire the property of his trust, he may earn no personal profit in administering the trust other than the compensation allowed, he must maintain a meticulous account of all his transactions, he must justify the prudence of every investment he makes and he is personally responsible for any deviation from the terms of the trust. In particular, he may not mingle the trust assets with his own but must keep them separate and identified. Note - For the civil law province of Quebec, modifications of the above statements are required.

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- 1.04 Like so many inventions of British law, the trust is an instrument of great social utility. But its ultimate value is achieved by employment of a corporation as trustee. Permanence (trusts may be perpetual) specialization in the diverse skills of property management, group judgment and financial responsibility, as realized in the modern corporation, give trusteeship new dimensions which personal trusteeship cannot achieve.
- 1.05 It is clear, however, that this enhanced value of trusteeship will depend upon the kind of corporation which undertakes the trust. Because of the social value of trusts and for the protection of the public, the State exercises a special jurisdiction over the incorporation and supervision of companies which are permitted to undertake the performance of trusts.
- 1.06 In Canada, the federal parliament and the legislatures of most provinces have enacted legislation to regulate trust business pursuant to the dual jurisdiction over the incorporation of companies. It may be said generally of all this legislation* that it is directed to two essential objectives, viz., the solvency of the corporations (trust companies) which are given trustee powers and the observance of practices in conformity with the law of trusts, in particular the segregation and ear-marking of trust assets.
- 1.07 The typical statutes place restrictions upon the investment of the company's capital. In most cases the investments authorized are broadly similar to those authorized for life insurance companies. They specifically require the segregation and ear-marking of trust assets and provide for regular reports, an independent audit and examination by government officers to ensure compliance with this vital trustee practice. Thus there is not only special protection for assets held in trust but there is assurance of capital assets to guarantee responsible trusteeship.
- 1.08 This matter of financial responsibility is the central issue to which the interest of the State is directed. An additional assurance is the prohibition, also common to most of the legislation, against public borrowing by the sale of debt obligations of the trust company.

*A list of the statutes and a note on exceptions to this generalization are contained in the Schedule which follows.

SCHEDULE TO 1.06

ALBERTA	The Trust Companies Act, 1960 Statutes of Alberta, 1960, Chap. 110
BRITISH COLUMBIA	Trust Companies Act R.S.B.C. 1960, Chap. 389
MANITOBA	The Companies Act, Part XIII R.S.M. 1954, Chap. 43
NEW BRUNSWICK	Trust Companies Act R.S.N.B. 1952, Chap. 237 (No restriction on the invest- ment of company funds)
NEWFOUNDLAND	No Act
NOVA SCOTIA	Trust Companies Act R.S.N.S. 1954, Chap. 300
ONTARIO	The Loan and Trust Corporations Act R.S.O. 1960, Chap. 222
PRINCE EDWARD ISLAND	No Act
QUEBEC	Trust Companies Act (No restriction on R.S.Q. 1941, the investment of Chap. 284 company funds)
SASKATCHEWAN	The Trust Companies Act R.S.S. 1953, Chap. 125
CANADA	Trust Companies Act R.S.C. 1952, Chap. 272

1.09 Very significant is the fact that the powers granted to trust companies are confined to fiduciary and related business. Since the dangers of engaging in risk enterprise are thus eliminated, the company's capital is available to meet claims which might arise out of the performance of its individual trusts and the liability undertaken respecting guaranteed funds. This principle under which fiduciary powers are granted only to corporations created solely for that purpose was wisely established and should be preserved.

1.10 Maintenance of the rigorous standards required in the unique trust relationship owe much to specialization in the corporation's fiduciary functions. As explained in (c) on page 8, the institutional organization is directed to ensuring practices appropriate to fiduciary duties and responsibilities. Staff training is an important factor emphasized by all the companies and supported by this Association. But not to be neglected is a tradition, established over many years and many lives in each company and in the industry, which makes certain demands of the individual whose career is in trust business. It results in a morale which is very marked in the industry -- a special attitude toward one's duty and a special pride in that attitude. It is a tradition which is shared in by the Boards of the companies.

1.11 The functions of the trustee corporation are described in the following three sections (2,3 and 4) of the Brief. It is necessary to explain the manner in which the functions are classified, viz., Individual, Collective and Corporate trusteeship.

Individual Trusteeships must be administered in all respects as units. In each trust the trust property is conveyed, the beneficiaries are designated and the powers and duties of the trustee are prescribed under a distinct trust document by the creator of the trust. The necessity for administration as units requires administrative methods and techniques which are not required in collective trusteeship and the property of each individual trust is kept segregated and identified. The most familiar form of these is the testamentary trust created by will and taking effect on death.

1.12 Included under the heading of individual trusteeships are pension trusts. Considered in the economic setting, the trustee's function is related to that described under collective trusteeship.

Private pension funds are another of the financial institutions described as investment intermediaries. But the pension trustee function is an individual trust as defined above and is created as a unit trust by the employer. It has seemed preferable to classify functions in relation to administrative considerations.

- 1.13 Agencies conducted for individual persons are also included here and are administered as individual units. Although not trusts at all, the business arises through the availability of the same organization of skills and reliance upon the same responsibility which makes the trust company an ideal trustee.
- 1.14 A Collective Trusteeship is created when members of the public pay money to the trust company to be held on definite terms but mingled together and administered as a single trust. It is necessary, of course, to keep an account of the interest of each contributor-beneficiary in the trust fund, i.e. the current balance in a deposit account or a certificate of the amount received upon whatever terms. It is in this role that the trust companies mobilize and invest a portion of the nation's savings.
- 1.15 Corporate Trusteeships are so called by reason of their relation to corporation finance. They are trusts for the holders of corporation obligations. With them are grouped corporate agencies because both these functions arise in the operation of the new issue market. In both cases, the function of the trust company provides greater security for the individual investor.
- 1.16 It has been convenient to distinguish the functions of the trust company but it is much more significant to call attention to their essential unity. All of them (except the related agencies) involve the trust relationship with the standards for performance which have been explained. They are all, including the agencies, related to savings. The individual trusts commonly represent a lifetime's savings in many forms -- stocks and bonds, real estate, mortgages, life insurance. The trust company's function is to preserve this capital, utilize it productively and eventually distribute it as directed. The collective trusts involve the function of attracting current saving as well as their management. The protective functions performed in the corporate trusteeships relate to savings

mobilized by another investment intermediary institution, the new issue market.

1.17 There is a third factor common to individual trusts and collective trusts which makes these two functions essentially compatible. Property management, for the trustee of individual trusts, has increasingly become investment management. In supplying the management skills which the public requires of them, the trust companies have placed increased emphasis on investment skills. They have built up highly specialized organizations for investment research and administration and are therefore ideally equipped to function as investment intermediaries through their collective trusts.

1.18 This is not to minimize the importance of the skills in real estate and mortgage management. This other area in which the trust companies specialize is of vital importance in finding, making, and administering mortgage investments. This skill also serves both individual and collective trusts and is frequently used in corporate trusteeships. This also emphasizes the essential unity of trust company functions.

(b) The Trustee Company in Other States

1.19 It will be of interest to compare the nature and functions of the Canadian trust company with institutions in other countries which exercise trustee powers. We are concerned only with countries whose legal systems are based or partly so on English common law because, with some qualifications, only in such systems is the trust known and recognized. (See "Trust Business in Common Law Countries", Stephenson, 1940, American Bankers Association, for a detailed examination of this subject).

1.20 In the United Kingdom trustee powers are exercised by insurance companies, joint-stock banks, and by the office of the Public Trustee. The trust service provided by all of them is as wide as that of the Canadian trust company including executorship and all forms of individual trusts and agencies including pension fund trusteeship and corporate trusts and agencies. Except for the Public Trustee (who holds an important place in the field), trustee powers are exercised by institutions which perform other financial roles. This has been true from the beginning and was apparently due to (a) less emphasis on the value

of corporate trusteeship and (b) the important role in trust business assumed by the Public Trustee.

- 1.21 New Zealand pioneered trust business. There, as in Canada, trust business is carried on by corporations which exercise it as their sole function. There are a few historic exceptions - companies in the insurance field. Banks are not engaged in trust business. The Public Trust Office has an important place in the field.
- 1.22 The Australian scene is similar. The "trustee" company (the title is more appropriate than ours) is the only institution which is granted trust powers except the public institution of Public Trustee in each of the states.
- 1.23 In South Africa, commercial banks exercise trust powers as well as trust companies which confine their activities to trust business. In India trust business is closely tied to banking, with commercial banks exercising trustee powers directly or through trust company subsidiaries.
- 1.24 In the United States trust powers were originally granted to corporations created solely for that purpose or to insurance institutions. All the states recognized the need for and created corporations to administer trusts. Some granted various insurance powers as complementary and practically all granted the additional power to receive deposits of money in trust. Nevertheless the trust company was considered a completely different institution from a "bank of discount and deposit" which was also a creature of all the state governments.
- 1.25 The situation to-day in the United States is that most commercial banks have trust departments and trust and banking powers are exercised by a single institution. The development of financial institutions there differed completely from the development in Canada with its national branch system.
- 1.26 While institutions with combined banking and fiduciary functions operate effectively in the U.S.A. and the United Kingdom, we nevertheless hold strongly to the view expressed in 1.09 that specialization of institutions in each of these fields, as found in the Canadian system, is sound.

(c) Organization and Procedures

1.27 There is nothing in the organic constitution of trust companies which differs from normal corporate structure. A few variations in the usual functions of a Board of Directors are noteworthy, although no pattern common to all companies can be described.

(a) Because of the predominant importance of the trust company's investment function its Board of Directors exercises a wider and more detailed surveillance of these operations that is common in the scope of activities of directors of other corporations. The Board or a committee appointed by the Board reviews all investment transactions in all individual and the collective trusteeships. This duty tends to determine the qualities sought in electing directors.

(b) All companies make use of their Board members in setting up special committees to exercise important discretions especially in relation to bond issue trusteeships and receiverships or in individual trusts of special magnitude and importance.

(c) Some companies have an executive committee of the Board which meets regularly and more frequently than the Board. It may perform the functions described in (a) and (b) above and may also make decisions respecting capital and guaranteed investment which, in other companies, would be made by the officers' investment committee.

(d) Because of the degree of autonomy accorded under the branch system described in 1.42 the companies normally appoint an "advisory board" in cities where branch offices are located. Usually such boards have no constitutional authority but advise the manager on local matters and public relations and are used as a special committee for the purposes mentioned in (b) above regarding trusts performed at the branch.

1.28 Whatever duties may be performed by the Board, it is clear that it may delegate powers in the usual way to the executive officers of the company. It is generally considered that officers so authorized have capacity to discharge all the corporation's powers and duties. Management skills alone are not adequate for the executive officers of trust companies. They are invariably qualified by trust business experience to contribute directly to trust operations through consultation or participation in committees and other group decisions.

1.29 A primary feature of organization is provision for the exercise of group judgment. This technique controls departmental and inter-departmental procedures, and is marked by the use of standing and special committees.

1.30 Internal organization is shaped to the special nature and functions of the corporation trustee. The essential feature here is specialization and departments are created to achieve the highest efficiency in each area of activity. Apart from the investment department, treated separately in the paragraphs following, characteristic organization in the larger companies also provides departments to deal with:

Trust Administration (individual trusts)	Real Estate and Property
Savings (receipt of guaranteed funds)	Management
Corporate Trust	Mortgages
Stock Transfer (including Registrar and other corporate agencies)	Income Tax
Trust Accounting	Death Duties
Securities and Vault	Insurance
Personnel	Pension Trust
Business Development	Capital and Guaranteed Accounting

(d) Investment Procedures

1.31 The investment department must be organized to deal efficiently with:

individual trusts and agencies (estates, trusts and agencies)
guaranteed funds
capital funds

including such special individual and collective trusts as:

pension trusts
pooled pension funds
pooled funds for registered retirement plans
common trust funds
investment fund (mutual type)

The organization is usually based on operational considerations.

Typical groups or divisions would be:

research	- compiling economic and other statistics and information on industries and corporations
bond analysis)	- responsible for specific recommendations in each area
stock analysis)	
trading	- placing of buy and sell orders
individual trusts	- responsible for portfolio management
funds	- responsible for portfolio management of pension and other funds
private companies	- management of estate owned corporations

mortgage

- to pass on loan applications officers with senior appraisal experience in the real estate and mortgage departments are added to form the Mortgage Committee

"wholesale" savings - receipt on special terms and investment of short term funds.

The actual buying and selling of securities, when approved, may be carried out by either the bond and stock trading section or the securities department, depending on the particular company's organization. The company treasurer or some executive experienced in finance normally will head the investment department.

1.32 Investment holdings of all accounts are reviewed by an investment committee of senior officers. Typical procedure would be a weekly meeting. The investment department groups in charge of portfolios are responsible for regular review at adequate intervals. The committee also considers matters of investment policy and reviews industries or specific companies at the instance of the investment department. Urgent matters may be dealt with between meetings by a group of members (three to five is common) designated by the committee.

1.33 We have been asked whether directors of trust companies influence investment to benefit other companies in which they are interested. Certainly the Boards of most trust companies are largely composed of men having other corporate interests with which their personal interest may be involved. It is here that the trustee tradition mentioned in 1.10 has an important influence. The concept of conflict of interest is a routine precept, thoroughly understood and meticulously observed. But in any event the procedures outlined above which place initiative within an operating department militate against the exercise of outside personal influence.

It should be added that an investment decision based upon the interest of a trust would not be disqualified because of the relationship of a director to the transaction.

(e) Control Procedures

1.34 Trust Companies are required by law to have their accounts audited by independent public accountants. Under the Canadian and Ontario Acts specific requirements are made concerning the auditor's report to the shareholders and in addition the auditor must report upon the annual financial return required to be filed with the administering

department of government. Both statutes provide for inspection of companies and comprehensive examination of their affairs at least annually.

- 1.35 All companies maintain a continuous internal audit as a control on operations and as an aid to the independent auditor who approves the internal audit program. The standard measure for safeguarding the handling of securities and for all payments are observed through the techniques of dual custody, dual control, and other divisions of authority.

(f) Branch Organization

- 1.36 Trust Companies are anxious to provide fully integrated trust services to every community in Canada through the establishment of new offices provided there can be forecast, with reasonable soundness, the eventual development of sufficient business to cover operating expenses and assure a reasonable profit after the offices are well established. Trust Companies are very conscious of the fact that increasingly more Canadians are using and requiring their services, and this in itself leads to the establishment of new offices wherever it is practical to do so. They are constantly alert to the needs of the general public and to develop new services to meet those needs as they become evident. That they are alert and responsive to the needs of the public has been proved by the development of new services, improved methods and also by the extension of offices to serve the country. The trend in branch establishment is shown by the following table:

	<u>1941</u>	<u>1946</u>	<u>1951</u>	<u>1956</u>	<u>1961</u>
Number of offices in which a fully integrated trust business was carried on in the years -	99	109	131	142	173
Number of other offices -	14	16	20	23	44
TOTAL	113	125	151	165	217

The second category relates to the "savings office" dealt with in 1.43.

- 1.37 New fully integrated branch offices are established as a result of many factors which include the following:

(a) - A volume of business is frequently built up in a particular area through the use of the mails.

This applies particularly to public savings and mortgage loaning.

- (b) - Business development personnel working in an area may find and develop considerable business of a fiduciary nature, i.e. estates, trusts and agencies.
- (c) - Invitations to open a branch office are received with increasing frequency from local citizens who feel the lack of adequate trust service of all kinds. Often it is the legal profession which takes the lead in requesting and encouraging the establishment of a trust company local branch office.

1.38 If these and other factors indicate that the opening of a branch office may be desirable the situation would be examined further.

- (a) - Appraisal by directors and senior officers through visits to the area and on the spot discussions with responsible people who are in a position to assess the possibilities from the local viewpoint.
- (b) - The availability of sufficiently trained senior personnel to provide the degree of experienced and highly competent service that would be required. It is estimated that a staff of at least nine to twelve persons is desirable to man a new fully integrated trust company office and of these at least four would require to be of a senior level of trust company experience. Admittedly more modest establishments have not been uncommon.
- (c) - The availability of sufficient funds in the budget allocated to branch office development.
- (d) - A study of general locations to determine population density, average personal income range and, as far as possible, the potential personal income range.
- (e) A study of general locations which would include traffic counts, availability of parking facilities, traffic factors and the direction in which future

development of a business area seems to be moving.

1.39 Once the site of a new branch office has been selected, it is then the responsibility of the trust company's office premises department to supervise the planning and construction. Space requirements of a new fully integrated branch office would generally be of the order of 2,000 square feet as a minimum, being approximately 200 square feet per employee, having in mind the number of employees referred to earlier. As the branch develops, the provision of square feet per person can be reduced to approximately 125 square feet. In planning, it has been found wise to provide additional space beyond the minimum requirements which can be available on short notice and, in the meantime, leased to sub-tenants. New branch office space will be required to be properly air-conditioned, attractively partitioned and decorated and, of course, heated. The rental cost, without furnishings and equipment of this kind of office space including adequate maintenance service, would probably range from \$7.00 to \$10.00 per square foot per annum.

1.40 In establishing a new branch office there are, of course, three main items of expense to be considered -- salaries, rent and advertising -- and, in addition, such other expenses as stationery, business tax, unemployment insurance, repairs, insurance, postage, telephone, charitable donations, auditor's and solicitors' fees as well as many sundry other expense items. An estimate is set out below of the approximate range of operating costs for the first five years in establishing an office providing all trust services.

(Figures express thousands of dollars.)

	<u>Salaries</u>	<u>Rent</u>	<u>Advertising</u>	<u>Other</u>	<u>Total</u>
1st year	40 - 45	14 - 24	12 - 12	15 - 18	81 - 99
2nd year	40 - 45	14 - 24	5 - 5	15 - 18	74 - 92
3rd year	43 - 48	14 - 24	5 - 5	16 - 19	78 - 96
4th year	44 - 49	14 - 24	5 - 5	16 - 19	79 - 97
5th year	45 - 50	14 - 24	5 - 5	17 - 20	81 - 99

It is generally estimated that it will take at least five years to reach the break-even point with a fully integrated office, but this estimate is on an over-all basis and not the break-even point for each department.

1.41 Each area in which a new office is established requires an individual program for the development of business in which emphasis

would be placed on the particular phases of trust company services which appear to be most in demand. While the objective is for the branch office to begin to show profit by at least the end of the first five years of operation, it is almost impossible to estimate the time that will be required for some departments (for example, the personal trust department) to reach the break-even point. In point of fact, there will undoubtedly be some departments which will be carried at a loss for a very long time in the effort to provide full trust services. As a general rule, economy would dictate the development, as quickly as possible, of the receipt of guaranteed funds and its investment in mortgages. This emphasis may make it possible to cover the losses of other departments which take considerably longer to reach the break-even point.

1.42 It is inherent in the nature of individual trusteeship business that a considerable degree of autonomy must be granted to branch management. The exercise of discretions is daily routine and the business cannot be operated from head office. This fact and the variety of services and skills required in trust business puts the branch operations of trust business in a quite different sphere from branch banking. This is well illustrated in the State of California where branch banking is permitted and where banks exercise trust functions. In this state, with a population approximately equal to Canada's, the Bank of America in 1960 had 658 branches but trust business was conducted at only 27.

1.43 Until comparatively recently, it was the practice of the companies to maintain one office in the central downtown area of each city in which they did business. In the early 1950's most cities experienced a movement of population to the suburbs and fringe areas. With this movement grew a demand for a full range of shopping and services to be provided within easy access to large residential concentrations. The demand became more urgent as the problem of transportation and parking worsened in the downtown areas.

1.44 Shopping centres in the suburban areas seemed to be the answer, for these centres not only provided the range of shops and services which the public demanded but they also offered adequate free parking facilities. Such centres brought about changes in shopping

habits and as they became increasingly popular, stores were opened Thursday and Friday nights as well as all day Saturday. The later 50's saw trust companies opening offices in shopping centres and the chartered banks were also establishing branches in these locations.

1.45 Depositors with trust companies have traditionally enjoyed a higher interest rate and longer business hours than were available at other financial institutions. It was logical to establish office hours which coincided with shopping habits. The trust companies in the suburban districts therefore remain open two nights a week as well as all day Saturday. The growth of deposits in the suburban offices clearly indicates that the trust companies are meeting a public need. This new kind of branch, while primarily directed to attracting savings, is used also for finding mortgage investments, conducting a real estate service, and as a feeder of fiduciary business. It is customary to arrange appointments at the branch for clients who wish to discuss wills and estate matters with qualified officers of the company. It will be obvious that branch expansion of this kind will involve substantially different cost and profit factors from those discussed above.

(g) Personnel Policy and Practice

1.46 Total staffs of Canadian trust companies number in the region of 7,000 people, about evenly divided between men and women, with aggregate annual salaries of about \$30 million.

Executive positions and those calling for training and experience in specialized fields, such as trust administration, investment research and management, pension trust development and real estate appraisal are usually filled by men. Women are employed extensively for clerical work, records, machine operations, stenography and filing. Female staff turnover is rather high.

Trust company staffs, particularly male staff, traditionally have included a relatively high proportion with long service of 25 to 50 years. Turnover of men is relatively low after the first two to three years of service during which a proportion of the younger men leave, including a number who wish to take advanced education.

1.47 Male staff for trust companies is generally recruited from three main areas:

High School graduates (junior matriculation standard generally required)

University graduates (principally Law, Commerce or Arts with emphasis on Economics.)

Applicants with a few years of business experience (not necessarily in the trust company field.)

Certain companies tend more than others to employ qualified lawyers for trust administration and executive posts and almost all companies have some law graduates. Increasingly, there are openings for public accountants. The main interest is in future leadership potential, regardless of standards of formal education, and it is primary policy to encourage the development of staff of this calibre.

1.48 To attract suitable applicants, personnel officers maintain contacts with placement and vocational guidance officers at universities and high schools and visit universities for campus interviews. use is also made of the National Employment Service, executive and professional placement services, newspaper advertising and office employment bureaus. Because of the specialized nature of the work which requires extensive internal training and experience, men are generally taken on under the age of thirty-five, but in some companies, older men are employed for less technical posts which do not impede channels for training and promoting younger men.

Trust company administrative work, being quasi-professional in many aspects and highly personal in dealing with clients' confidential affairs, requires not only the highest character but above average qualities of ability and temperament. In selecting male staff, standards are therefore high, selection being based on educational qualifications, initiative, energy, characteristics for good relations with clients and fellow employees and potential for advancement.

Salaries and wages in the industry are considered to be in line with those in the financial group. Indeed the necessity in recent years of competing in the market for recruits has tended to create a common salary and wage structure.

1.49 The training of trust company personnel is largely "on the job". However, this is often augmented by orientation courses and

regular classes and discussion groups within companies. Many companies conduct continuing classes as part of a training program in the field of personal trust and estate administration and some companies have operational training groups to provide individual and collective training for new men entering these fields.

Trust companies make available to their employees enrolment in a comprehensive four subject correspondence course conducted by Queen's University under the auspices of the Trust Companies Association of Canada. It normally requires four years for completion. In addition, many companies encourage staff to take outside courses on technical subjects related to their employment. Such specialized courses might include real estate management and appraisal, investment analysis and machine accounting. Many companies pay for part or all of these extramural training courses, and this policy is applied in some cases to night courses for university degrees.

1.50 Historically, the policy of trust companies on promotion has very definitely been "promotion from within" and this still applies for the most part. Senior executives, with few exceptions, have risen through the ranks and have had many years of experience in their companies. On occasion, trust companies do reach outside their organizations to fill senior positions but this is nearly always in technical or professional areas.

The continuous and more rapid growth in trust companies in recent years has provided opportunities for relatively rapid promotion for men with ability and willingness to work. However, a candidate for advancement must generally have gained a sound basic knowledge of some phase of trust company work through several years of experience in the company. As in other areas of business, engagement of staff was virtually at a standstill during the depression and war years so that natural attrition as well as expansion are providing increasing promotional openings for younger men. Indeed expansion in recent years has created very serious problems in some areas, particularly management.

(h) Evolution of Canadian Trust Business

1.51 The schedule which follows gives an indication of the relative size of all trust companies registered and conducting business in Ontario during 1960 as ascertained from the "1961 Report

of the Registrar of Loan and Trust Corporations for the Province of Ontario". All figures are for the calendar year 1960. It will be noted that one-half of these companies have been operating since the turn of the century. Apart from the historical features discussed in 3.01 there has been a long term tendency in all sectors of Canadian industry for businesses which were originally local in character to achieve national stature. It was natural that this process should involve mergers and acquisition of localized institutions by expanding organizations. It was natural too that trust business should emulate the chartered banks in developing the branch system as a sound method of making trust services available across the nation. This is not to say that the branch system is required in our industry. Indeed, for the reasons discussed in 1.42, it presents difficulties. These find their root in the nature of the business which will always ensure a place for purely local institutions.

1.52 Following are some mergers of recent years effected by the acquisitions listed below:

Montreal Trust

- 1955, The Brockville Trust and Savings Company
- 1957, Prince Edward Island Trust Company
- 1961, Acadia Trust Company of Truro, N.S.

The Royal Trust Company

- 1956, Barclays Trust Company of Canada
- 1959, Okanagan Trust Company

Trust General du Canada

- 1957, Sherbrooke Trust Company

Guaranty Trust Company of Canada

- 1958, The Equitable Trust Company
- 1958, The Western Trust Company
- 1960, Prudential Trust Company

The Canada Trust Company

- 1961, British Canadian Trust Company

In December 1961, a merger was effected between The Toronto General Trusts Corporation and the Canada Permanent Trust Company to create the Canada Permanent Toronto General Trust Company.

(Thousands of Dollars)

Name of Company	When Incorporated	Company Funds	Guaranteed Funds	Estates, Trusts and Agency Funds	Total Assets under Administration	Gross Income	Net Profit After Inc. Taxes	Branches in Canada
Royal Trust Company	1892	\$23,253	\$186,432	\$2,252,147	\$ 2,461,832	\$11,622	\$ 1,525	21
Montreal Trust Company	1889	13,277	129,544	1,674,027	1,817,028	8,712	1,187	19
National Trust Company, Limited	1898	7,729	112,513	717,556	837,798	7,175	643	17
Canada Permanent Toronto General Trust Company (a)	1872	11,859	78,888	723,018	813,765	6,555	711	27
Canada Trust Company	1894	7,087	85,073	399,038	491,198	4,705	461	29
Administration and Trust Company	1902	4,329	26,486	271,080	301,895	1,156	332	6
Eastern Trust Company	1893	4,231	41,276	209,273	254,780	1,761	208	13
General Trust of Canada	1909	2,972	28,976	220,081	252,029	1,330	258	4
Guaranty Trust Company of Canada	1925	8,230	94,867	146,729	249,826	3,204	777	17
Crown Trust Company	1897	4,166	37,043	198,869	240,078	3,044	331	8
Chartered Trust Company	1905	5,499	44,720	132,256	182,475	2,824	372	4
Waterloo Trust and Savings Company	1913	4,400	65,759	40,212	110,371	1,718	282	7
Victoria and Grey Trust Company	1897	5,865	71,809	21,653	99,327	1,840	463	6
British Mortgage & Trust Company	1877	3,369	39,430	1,916	44,715	832	174	5
Sterling Trusts Corporation	1911	2,404	22,236	11,525	35,965	692	239	3
Premier Trust Company	1913	2,064	19,660	7,240	28,964	811	220	3
Prudential Trust Company, Limited	1909	400	-	20,837	21,237	508	53 (b)	3
Industrial Mortgage and Trust Company	1889	1,416	15,150	4,370	20,936	376	78	3
Investors Trust Company	1957	1,014	144	12,796	13,954	113	3	3
Halton & Peel Trust & Savings Company	1955	1,136	10,311	903	12,350	251	19	2
Lambton Trust Company	1928	433	-	3,395	3,828	57	22	
Bankers' Trust Company	1905	432	-	-	432	47	33	
		\$115,565	\$1,110,317	\$7,068,901	\$ 8,294,783	\$59,333	\$ 8,285	197

(a) Pro forma figures of The Toronto General Trusts Corporation and The Canada Permanent Trust Company reflecting the merger which became effective on 1st December, 1961. Date of incorporation is that of Toronto General Trusts Corporation.

(b) Net Loss.

All figures as at Dec. 31, 1960.

1.53 Dealing first with the matter of mergers, we recognize that the history of trust business in Canada is marked by amalgamation and consolidation and it is thought to have brought a stronger, better integrated industry, providing over-all a better service to the economy and operating aggressively in an atmosphere of active and healthy competition. It is reasonable to suppose that the public interest might benefit from further amalgamations in the industry which would have their justification in the same considerations which have been responsible for this trend in the past. Provision is made by existing legislation for the protection of the public interest.

1.54 Dealing next with the matter of ownership of trust company shares by chartered banks, a preliminary observation is relevant. There is nothing new in an association of interests between trust companies and chartered banks: such relationships, ranging from very close association to casual and occasional working arrangements, have existed for many years. In the first place, the trust company is a bank client. The bank accounts of every trust company for its estates, trusts and agencies, company and guaranteed funds and corporate trusts are very important accounts for any bank. If the trust company accepts deposits subject to the "chequing" privilege, an arrangement must be made with a chartered bank to clear cheques drawn on the trust company through the clearing facilities operated by the chartered banks.

Beyond this, however, the two institutions offer financial services which are in many ways complementary and each finds it convenient to refer its clients to the other for services which it does not itself perform. Such workings relationships exist and have existed for many years between most banks and one or more trust companies. This kind of relationships described are bound to be closer where either institution has a financial interest in the other.

1.55 There seems to be no valid reason why the public interest should be adversely affected where the ownership of trust company shares can be considered to be merely an investment by a chartered bank. It should have no greater significance than the kind of existing

relationships described above. It may result in benefit to the trust company concerned as against others having looser bank associations. But whatever the result for other trust companies, there is no necessary connotation of disadvantage for the public.

We regard competition between the various types of intermediaries as important in the public interest. It is an element in achieving the maximum value of their roles in the capital market. It does not appear that ownership need affect or is likely to affect this feature in view of the number of institutions which maintain intense competition in each area. Certainly there is no evidence that the direct competition between banks and trust companies for savings has been lessened by any of the associations which exist.

1.56 Somewhat related is the investment by finance companies in trust companies. An investment interest of the kind described can evolve naturally out of business relationships and it is difficult to see how it could have an adverse effect on the operation of the financial system.

1.57 The rapid growth of financial institutions in general over the decade from 1951 to 1960 in terms of total assets (assets under administration in the case of trust companies) is summarized below. The percentages shown reflect the compounded annual growth of the various segments (listed in order of size) and are based on the figures in the schedule which follows.

	<u>1960/1951</u>	<u>1955/1951</u>	<u>1960/1956</u>
Chartered Banks	6.6%	7.6%	6.0%
Life Insurance Companies	6.5	6.4	6.6
Trust Companies	8.4	6.2	10.9
Instalment and Other Finance Companies	15.4	21.9	7.0
Mortgage Companies	8.5	8.4	9.8
Fire and Casualty Companies	<u>9.7</u>	<u>11.6</u>	<u>8.6</u>
Weighted Average	7.4%	7.6%	7.2%

It is interesting to note that the average annual growth of the trust industry between 1951 and 1955 was the slowest of all institutions surveyed - 6.2% v. 7.6% for the group. However, in the extremely more competitive conditions of the 1956-1960 period, the trust companies surpassed the group as a whole with an average annual increase of 10.9% (7.2% for all institutions). On balance over the

TOTAL ASSETS AS AT 31ST DECEMBER (MILLIONS OF DOLLARS)

	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960
Canadian Chartered Banks Source - Canada Year Book 1961	\$9,458	\$10,128	\$10,656	\$11,433	\$12,702	\$13,428	\$14,244	\$15,840	\$15,835	\$16,917
Canadian Life Insurance Companies under Federal Registration Source - Canada Year Book - various years	4,889	5,207	5,568	5,872	6,278	6,670	7,104	7,583	8,095	8,610
Canadian Trust Companies Registered and Conducting Business in Ontario (Figures include Estates, Trusts and Agency Funds) - See Breakdown Below. Source - Report of the Registrar of Loan and Trust Corporations for the Province of Ontario - various years	4,005	4,164	4,331	4,712	5,081	5,511	6,008	6,929	7,622	8,295
Instalment and Other Finance Companies (estimate of Major Assets)* Source - Bank of Canada Statistical Summary - January, 1962	565	813	1,025	998	1,244	1,612	1,684	1,675	1,962	2,112
Canadian Mortgage Companies Registered and Conducting Business in Ontario Source - Report of the Registrar of Loan and Trust Corporations for the Province of Ontario - various years	284	296	309	355	391	408	432	481	531	593
Canadian Fire and Casualty Insurance Companies under Federal Registration Source - Canada Year Book - various years	240	268	312	341	372	394	413	451	483	547
	\$19,441	\$20,876	\$22,201	\$23,711	\$26,068	\$28,023	\$29,885	\$32,959	\$34,528	\$37,074
BREAKDOWN OF TRUST COMPANIES' ASSETS UNDER ADMINISTRATION										
Own Account Assets	77	77	79	81	88	95	98	102	109	116
Guaranteed Account Assets	335	355	359	505	577	598	630	806	900	1,110
Estates, Trusts, and Agency Funds	3,593	3,732	3,893	4,126	4,416	4,818	5,280	6,021	6,613	7,069
	\$4,005	\$4,164	\$4,331	\$4,712	\$5,081	\$5,511	\$6,008	\$6,929	\$7,622	\$8,295

Schedule to 1.57

* Instalment finance companies, companies licensed under the Small Loans Act and affiliates engaged making personal loans. Excludes subsidiaries of merchandisers who finance sales of their parent companies only.

decade, the trust companies' total assets rose slightly more rapidly than the group at 8.4% v. 7.4%.

1.58 While the trust industry has had a rapid rate of growth (as measured by total assets under administration), more or less in line with other financial institutions, it should be noted that the trust companies' profits are smaller than either that of the chartered banks or finance companies, not only in dollar figures but, more importantly, in rate of return on shareholders' funds. The schedule which follows indicates that between 1956 and 1960, the trust companies had an average return on shareholders' equity of only 7.95% compared with 8.48% for the banks and 12.73% for the finance companies. In actual fact, the finance companies' return averaged 13.19% if the intangible assets are deducted from shareholders' funds, which is conservative accounting. The loan companies had the lowest return on equity during the period surveyed at 7.46%.

1.59 The nature and extent of trust company services in Canada over the years has been conducive to strong competition. In seeking to take advantage of opportunities afforded by the increasing demand for their services in a growing economy, trust companies have pursued aggressive business development and expansion programs. Although the companies that conduct a general trust business are fewer in number than they were ten years ago, the number of offices has increased as shown in 1.36. Fifty-two offices have been opened in the past five years, many of which are located in shopping centres and in the newer residential and business sections. They are often in competition with nearby branches of other trust companies and compete with downtown offices in a number of centres.

1.60 As gatherers of savings, one of the strongest areas of competition between trust companies is the attraction of deposits and other guaranteed funds. Here competitive factors extend to offering convenient locations and longer hours of business. But the essential basis of competition is the interest paid for funds. The schedule which follows is an analysis of competitive rates which appeared in the Financial Post of May 5, 1962. Because deposits and guaranteed investment certificates are such an important part of

COMPARATIVE STATISTICS FOR EQUITY, NET PROFIT, AND RATE OF RETURN

	1956	1957	1958	1959	1960	AVERAGE
	(IN MILLIONS OF DOLLARS)					
Chartered Banks						
- Shareholders' Equity	650.329	730.036	798.637	921.791	999.796	820.117
- Net Profit (a)	61.0	65.3	69.4	67.8	84.3	69.56
- Percentage Return	9.38	8.94	8.69	7.36	8.43	8.48
Finance Companies (b)						
- Shareholders' Equity	106.500	116.784	124.899	134.089	149.074	126.269
- Net Profit	14.344	14.478	16.499	17.002	18.029	16.070
- Percentage Return	13.47	12.40	13.21	12.68	12.09	12.73
(Deducting Deferred Financial Expenses from Shareholders' Equity)	(13.76)	(12.90)	(13.69)	(13.08)	(12.69)	(13.19)
Trust Companies (c)						
- Shareholders' Equity	80.887	84.183	88.352	95.339	100.62	89.765
- Net Profit	6.206	6.216	7.306	7.665	8.285	7.136
- Percentage Return	7.67	7.38	8.27	8.04	8.28	7.95
Loan Corporations (c)						
- Shareholders' Equity	54.561	56.121	61.816	76.121	79.225	65.569
- Net Profit	4.651	4.748	5.622	4.621	4.830	4.894
- Percentage Return	8.52	8.46	9.09	6.07	6.10	7.46

(a) Net profit as defined by the Bank of Canada and set out in its "Statistical Summary" of January, 1962.

(b) Weighted average of 3 largest Canadian independent finance companies - Industrial Acceptance, Traders Finance, and Laurentide Financial.

(c) Source - Report of the Registrar of Loan and Trust Corporations for the Province of Ontario - various years.

	Savings Deposits			Certificates		
	Interest rate		Min. Balance Months	Interest Rates		Term * (Years)
	Current %	July /59 %		Current %	July /59 %	
Can. Perm For. Gen.	3½	**	6	5	5¼	5
Canada Trust	3½	3	6	5	5¼	5
Chartered Trust	3½	3½	6	5	5½	5
Crown Trust	3¼	3¼	6	5	4¼	3 - 5
Guaranty Trust	3½	3	6	5	5¼	3 - 5
Montreal Trust	3½	3½	6	5	5	5
National Trust	4	3½	6	5	5	5
Premier Trust	3½	3¼	6	5	5½	3 - 5
Royal Trust	***	***	***	5	5½	5
Sterling Trusts	3½	3¼	3	5	5¼	3 - 5

* Interest Rates are lower for shorter periods

** Predecessors Canada Permanent Trust paid 3% Toronto General Trusts paid 3½% on savings deposits; both paid 5¼% on certificates (1)

***Company does not operate a savings department.

(From The Financial Post, May 5, 1962)

(1) Canada Permanent Trust Company did not accept deposits of other guaranteed funds.

trust company operations, and because contact with the public is broadest in this particular field, competition will continue at a high level.

- 1.61 In the mortgage field interest rates and terms show appreciable variations. Some companies allow higher valuations on property and make loans in areas where other companies will not. If funds in the hands of a company for investment are plentiful, mortgage money may be offered at a lower rate in order to get it out. Mortgage interest rates on similar security under the same terms and conditions might vary by as much as $1/2$ of 1%. In seeking to obtain mortgage loans, borrowers frequently "shop around" in order to obtain the most favourable rates.

In estate, trust and agency services there is aggressive competition between trust companies for new business. Most trust companies maintain business development departments and actively solicit appointment as executors, trustees, managers of investments and other property and a broad list of financial services. Large sums are spent each year on advertising. No two trust companies are exactly the same and they exploit all the factors which affect public preference - location, facilities, service, personnel, financial statistics, prestige names on Board or staff, and even antiquity. The same competition exists in offering corporate services such as stock transfer and other agencies, bond trusteeship, pension fund trusteeship, etc.

- 1.62 The desire of trust companies to compete in as many ways as possible and to make their services attractive has resulted in an increase in the number of trust company services available today. Certainly it has raised the standard of all services. Although successful competition has resulted in increased dollar volume of business, the cost per dollar of acquiring and servicing new business has grown as well. There is no doubt that the Canadian public enjoys today, at no increase in cost, a quality and breadth of trustee service far surpassing that afforded by the industry in the past.

(1) The Trust Companies Association of Canada

- 1.63 The coming together of trust companies into association was brought about in Ontario and Quebec in 1932 by the necessity for

creating organizations to provide "an opportunity for consultation and co-operation in matters of interest and importance to trust companies". The Trust Companies Associations of Quebec and Ontario have a history of thirty years. Each concerned itself only with affairs in its own province. Subsequently similar associations were established in several other provinces. With the continuing growth of trust business and the national extension of branch organization it became obvious that only an association national in scope and character would be adequate to serve the industry.

1.64 In 1952 The Trust Companies Association of Canada was formed. It consists of six local provincial organizations or sections in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, and two regional sections, New Brunswick-Prince Edward Island and Nova Scotia-Newfoundland. The activity of the sections is limited to matters within their own areas because operations of trust companies are conducted under the jurisdiction of provincial laws. The Trust Companies Association of Canada is an unincorporated organization. It has twenty-eight member companies incorporated under federal or provincial authority. Membership is voluntary and the eligibility requirement is the provision of general trustee services. Member companies have two hundred and seventeen offices in large and small centres in every province in Canada.

1.65 The purpose of the Association, as set out in its Articles of Association, is as follows:

"Recognizing that trust institutions and the services rendered by them to the public are in integral part of the social and economic structure of Canada and having in mind the desirability of continuous effort to improve and widen those services through co-operation in a nation-wide association of trust companies, as well as through membership in similar provincial organizations, the objects of this Association shall be:

1. To foster sound and equitable principles in the conduct of all phases of trust business
2. To afford through meetings and otherwise opportunities

for consultation, and co-operation in matters of interest and importance to trust companies.

3. To gather and distribute information of interest and value to members.
4. And in general to promote the interests and welfare of trust companies and those they serve."

The Association's affairs are carried on by a president and executive committee elected annually from representatives of member companies.

1.66 The Association is interested in all provincial and federal legislation which may affect any aspect of its members' services to the public or the conduct of trust business. Each section scrutinizes provincial legislation and whenever necessary makes representations to local governments. The national Association keeps in touch with federal legislation and the government departments which administer it. In matters of importance to trust companies generally various government departments have indicated a strong preference for dealing with the Association rather than with individual companies. The Association frequently has been invited to make submissions to the government on many subjects. Many of the members of The Trust Companies Association are members also of The Dominion Mortgage and Investments Association which acts in their behalf in respect of investment and mortgage matters and legislation affecting them. For this reason there is a close relationship between the two organizations.

1.67 The bulk of the continuing work of the Association is carried on through standing committees which deal with various trust company functions. These are:

- Employees' Training Course
- Institutional Advertising and Public Relations
- Savings and Guaranteed Funds
- Income Tax
- Pension Trust
- Stock Transfer

There are also standing committees of provincial Associations on such matters as trust administration and taxation which become matters for provincial action by reason of constitutional considera-

tions. A number of the provincial Associations also have local Stock Transfer Committees. Committees are also appointed from time to time to deal with special projects. For example, during the period of acquisition of Petroleum and Natural Gas leases by the oil companies engaged in development, oil royalty trusts were being accepted by most of the companies. A committee undertook a study of these trusts in order to standardize the rights and obligations of royalty owners and the investing public arising under the trust agreements and a new form of trust agreement was generally adopted.

1.68 The main concern of all these committees is to deal with mutual problems of service which are constantly arising. How, for example, with the advent of data processing, should accounts be presented to the Courts? What should be the required provisions of pension fund agreements which will clearly establish the duties and responsibilities of trustees? How can we co-operate with the stock exchanges toward the operation of a depository system which would largely eliminate the holding of stock certificates for Exchange members' inventories? The subjects are endless and the effort is to meet the needs of the public and to constantly improve the standard of service offered.

1.69 Outside the technical area, their work is required by the Association's concern with matters of policy. It is important that the industry should be concerned with social problems to which the functions of the companies are related. The committees conduct studies and make reports upon which the executive may base decisions. For example, the Pension Fund Committee recently prepared, for approval by the executive, a statement of the Association's position on Old Age Security. This committee is also largely responsible for the portion of this document dealing with pension funds.

1.70 The Association is a voluntary organization: it has no constitutional powers of self-government for the industry. Its work as outlined above is to improve the standards of service in the industry. In the area of rates of compensation for services charged by trust companies, there is no authority or coercion exercised by the Association.

1.71 The Association committees are composed of representatives of member companies who elect a chairman from among their members annually. These committees study and recommend uniform methods of computing fees, i.e., the listing of operations to which a charge is attributed. Some of the committees, particularly Corporate Trust and Stock Transfer, have carried out cost studies which include an examination of practices and experience in the United States and elsewhere. This has tended to create a uniform attitude toward compensation for these services. The companies, however, establish their own fee schedules and these may vary in application. For special and non-routine services, the charges differ considerably.

1.72 While the Association has no authority to coerce any member, it is obvious that it has an influence toward uniformity. The very fact of membership, common objectives and continuous co-operation all work toward this result. This may tend to reduce competition in trust services on a purely fee basis, but there is no question whatever that competition for business is extremely keen. It is based mainly on quality of service. The public unquestionably benefits from this and has benefited by the constantly improving general standard of service which the continuous effort of the Association has helped to achieve.

(j) Trust Business in our Economy

1.73 The range of trust company services offered to the general public varies considerably between companies. All companies, however, provide the essential fiduciary services, requiring professional management of assets. Some offer the more developed services described elsewhere in this symposium to individuals and corporations, organizations and institutions. Most companies receive deposits and other funds for guaranteed investment.

1.74 The basic function of trust companies can best be summed up as the professional management and economic employment of funds entrusted to them. The benefit which accrues to the owners of this capital by its preservation and its productive use will be synonymous with the benefit to the nation as a whole. Although the investment skills employed by trust companies in the administration of their individual trusts and collective trusteeships do not enter into their

corporate trust and agency services to the same extent this third role nevertheless finds them performing services which have a similar significance -- protecting capital investment.

1.75 With the wider distribution of wealth in our expanding economy the level of financial sophistication is certainly rising. Nevertheless, the complex and ever changing investment climate creates a growing need for trustworthy professional management of capital assets. The growing realization of this fact is evidenced by the increasing business entrusted to us and to many investment intermediaries. The trust companies' success lies in meeting this need over such a wide range by the variety of its services. It is illustrated by the continuity provided in managing the affairs of a client -- from his first savings account to the final distribution of his estate, where the process begins again with a new generation.

1.76 The operations of this kind of institution continually increase the proportion of accumulated savings of the nation which gets into institutional hands for investment management. The trustee feature, in individual trusteeships, therefore accomplishes the same purpose in attracting accumulated savings as do the various kinds of claims offered by investment intermediaries in attracting current savings. That institutional care and management of savings benefits the economy should require no advocacy. It may also be reasonable to claim that, in some degree, institutional investors perform the function which is discharged by some form of investment issue control in a planned economy. The new issue market depends primarily on the acceptance of issues by institutions.

1.77 The function performed in the capital market by trust companies through their collective trusteeships, as one of a large group of investment intermediaries, is well known. Its value to the economy lies not only in their investment management of savings -- in providing social capital to both the public and private sectors of the economy -- but in the stimulation of saving itself through competition among themselves and other intermediaries in attracting funds.

1.78 The significance of the trusteeship feature is difficult to

appraise. It provides an additional security for the saver who entrusts moneys to the trust company for guaranteed investment, as will be explained in Section 3. In individual trusts, the security of provision for dependants afforded by the corporation executor is clear enough. But another trustee function provides an interesting example. Private pension plans are one of the class of institutions known as investment intermediaries. They attract savings by offering claims to old age security. If the plan is insured, the savings will go to an insurance company to purchase annuities. If the plan is implemented by a trustee fund, the savings will probably go to a trust company because personal trusteeship of pension funds is becoming obsolete. The development of this second form for implementing pension plans has without doubt greatly increased the scope and utility of voluntary provision for employee pension plans. As will be explained in Section 2, many new avenues for flexible and effective retirement provisions have been opened up through the emergence of trusteeship in the pension field.

- 1.79 The investment skills of trust companies are supplemented by a highly specialized skill which is an essential feature of their many services. This skill, real property appraisal, is employed in making sound mortgage loans with funds received in individual and collective trusts. The trust companies, along with two other intermediaries -- mortgage loan companies and insurance companies -- also serve the economy by providing capital for housing and other construction. Their importance in this field is discussed in detail in Section 3.
- 1.80 There are two types of investment intermediaries which employ savings in a specialized field but which traditionally do not collect savings directly. These are instalment finance companies and small loan companies. They receive savings indirectly through various other institutions. Trust companies do not channel savings to small loan companies but finance companies which can meet the statutory investment qualifications sell their obligations to trust companies. In this way capital is provided indirectly to another important sector of the economy. The same kind of indirect financing is effected through the large deposits of trust funds maintained by trust companies

with the chartered banks.

1.81 In the performance of all of their functions, trust companies face active competition. As an example, some services are listed below to show where competition arises:

safe custody	- chartered banks
estate and trust administration	- lawyers and notaries and individuals
investment management	- investment counsel
pension plans	- life insurance companies
gatherers of savings	- numerous other investment intermediaries
stock transfer agencies	- corporations themselves may perform this function
real estate services	- real estate firms
mortgage loaning	- government and institutional lenders

TRUST BUSINESS IN CANADA

Section 2 - Individual Trusteeships

Estates, Trusts and Agency Business

(a) General

2.01 The great bulk of assets under administration by trust companies are held on estate, trust and agency account. The performance of these individual trusts and agencies represents by far the largest part of the services of all the companies, and employs a proportion of their staffs much greater than the proportion of these assets in the whole. The asset statistics are misleading since they are book values and because the practice of the companies varies in how these trusts are recorded. In many cases, only nominal values appear in the asset figures. This E T & A item does not represent corporate trusts which are not represented on the balance sheet in any way. *The billions of dollars of mortgages granted by corporation borrowers to trust companies in trust to secure bondholders would completely distort a balance sheet.

2.02 The table which follows will indicate the growth of this part of trust business and evidences the increasing demand for these services by the public.

Assets under Administration, Estate, Trust and Agency

(000 omitted)

1920	\$ 575,259	1956	\$5,133,928
1930	1,867,622	1957	5,582,378
1940	2,673,859	1958	6,318,998
1950	3,638,469	1959	6,902,512
1955	4,720,332	1960	7,369,429
		1961	8,142,835

The figures are taken from the reports of the Superintendent of Insurance for Canada and the reports of the Ontario Registrar for Trust Companies. They include pension trusts.

(b) Estate Administration

2.03 Of the individual trust and agency business dealt with in this section, much the larger part consists of estate administration. (Unfortunately the accounting of the companies does not provide a breakdown of the asset figure into the classification of estates, living trusts and agencies). Certainly when the public thinks of trust

*Amounts of cash received temporarily under bond trusteeships from time to time are held in trust account but are of little significance. (Construction funds, proceeds of property sales, insurance losses and redemption moneys are held for varying periods pending disbursement.)

companies, it thinks of executors. Estate administration results in most cases from appointment of the company in a will which becomes effective upon the death of the testator.

2.04 A description of the complex and technical elements of estate administration is not required for this information paper. The efficiency of trust company administration arises from the use of specialists under the organization described in Section 1. Acting as auxiliary to a senior trust officer who is placed in charge of the account, appraisers value real estate and mortgages, accountants analyze the value of private companies, specialists in death duties prepare returns and negotiate disputed valuations, income tax functions and problems are handled by a specialist department, professional experience and group judgment are brought to bear in every step. Since most wills provide for continuing trusts, assets will come under the management of specialized departments, in particular the investment department.

2.05 Where a will creates continuing trusts the executor is usually appointed "executor and trustee". The executor is indeed a trustee but his task as executor may be severed from the trusteeship of continuing trusts and terminates, in theory, when the executor sets aside the trust property which is the subject of the continuing trust.

Continuing trusts involve responsibilities far beyond the management of the assets. Usually there are beneficiaries interested in the income of the trust ("life tenants" are entitled to the income for life) and other beneficiaries interested in the residue ("remaindermen"). Their interests frequently conflict and the trustee must "hold the balance fairly". The trustee may be given very wide discretions to use capital of the residue for the benefit of life tenants or for remaindermen in advance of the termination of the life interest.

2.06 The testator may also appoint more than one executor or more than one trustee of a continuing trust. Where a trust company is appointed, a person may be appointed as well. Usually the explanation is that the testator wants the trust company for its skills, continuity and financial responsibility, but looks to the co-executor to provide a personal touch. The companies feel that this usually results from a lack of knowledge of how trust companies operate and a failure to reflect on the obvious fact that a corporation can only act through persons.

Trust companies are willing to act with co-executors but recognize a duty to point out certain attendant disadvantages. The fact is that the advantages of corporation trusteeship may well be lost. Since both trustees must act, there is no certainty that the personal trustee will always be available. The testator appointed the trust company because of his confidence in its business and investment judgment. But the co-trustee can veto any decision. Co-trusteeship frequently creates unavoidable delays which make it a cumbersome arrangement although the trust company makes every effort to minimize the difficulties.

2.07 Estate administration will also be required when a person dies without making a will, or when the executor appointed under a will is unable or unwilling to act. In such cases (and certain other special circumstances) an administrator of the estate is appointed by the Court and the appointment of a trust company is peculiarly desirable. Its knowledge, experience and financial stability are of exceptional value; they provide those requirements the deceased would have wished to ensure in his personal representatives. Subject to the necessary consents of persons with prior rights being obtained, the Courts are not hesitant to appoint trust companies in such cases.

(c) Executors' Remuneration

2.08 Provincial law governs matters of property and civil rights and, therefore, wills, the devolution of estates, the legal responsibility of executors and administrators and the subject of fees.

The Trustee Acts of the common law provinces deal specifically with the responsibility of executors, trustees and administrators to account for their administration and with the subject of remuneration. Although the Acts of the various provinces differ in some degree, those of British Columbia and Ontario are indicative of all.

Section 94 of the Trustee Act of British Columbia provides that unless accounts are approved by all beneficiaries or unless the Court or Judge otherwise orders, every executor, administrator or trustee shall pass his first accounts within a limit of two years and annually thereafter.

Section 82 of the same Act provides for fixing the remuneration of trustees. They are entitled to a fair and reasonable allowance not exceeding 5% on the capital and income of the estate, for "care, pains,

trouble and time expended". The exact amount is decided by the Supreme Court or a Judge thereof, or by the Registrar if so directed by a Judge.

2.09 In Ontario, no schedule for passing accounts is laid down by statute. The custom is that accounts are passed initially in one to two years and thereafter every two or three years.

Section 23 (2) of the Trustee Act of Ontario provides that where the trustee's compensation has not been fixed by the instrument creating the trust or by the beneficiaries, the Judge of the Surrogate Court passing the accounts shall do so.

Section 61 (1) of the Act deals with allowances to trustees and provides that a trustee shall be entitled to a "fair and reasonable allowance for his care, pains and trouble and his time expended in and about the estate". The Judges in Ontario, in allowing compensation, apply varying percentages to capital and income receipts and disbursements. They observe the same maximum of 5% which is statutory in British Columbia, but make additional allowances by way of management fees in certain circumstances.

2.10 It would seem that this method of awarding compensation is followed fairly closely in almost all the common law provinces. In the province of Quebec, however, remuneration of executors and trustees is not fixed by the Court and the beneficiaries are asked to approve accounts and to agree on compensation.

2.11 A serious inequity in compensation custom is that no additional compensation is allowed even though the testator has appointed more than one executor. The percentage award must be shared by co-executors. The basis of the division between the trust company and their co-executors is usually a matter of mutual agreement, although a Judge of the Surrogate Court has the power to apportion compensation.

This rule on compensation poses a serious problem for trust companies and is certainly illogical and unfair. A testator who insists on having more than one executor or trustee should expect to pay them all. The duties and responsibilities of trust corporations are not decreased when they act with co-executors or co-trustees in the administration of an estate: on the contrary they are increased.

2.12 Trust companies endeavour, wherever possible, to obtain the approval of beneficiaries to their administration as disclosed by their accounts and to compensation for their services. This can be done only when all the beneficially interested parties are known, are of age and are competent.

2.13 Some of the difficulties regarding compensation and in particular that relating to co-executors can be avoided by agreement with the testator in his lifetime. Many companies suggest that such an agreement be embodied in the will which appoints them. A flexible element is necessary and one commonly used in Ontario provides: "I agree that the compensation payable to X Trust Company for the administration of my estate shall be according to the above schedule of fees. It is understood that this agreement may be terminated during my lifetime by either myself or by X Trust Company giving notice of such termination in writing to the other party".

(d) Living Trusts and Agencies

2.14 The trusts described herein are referred to as "living trusts" to distinguish them from testamentary trusts. A living trust is one established during the settlor's lifetime to become effective immediately upon its execution. The creation of a living trust involves the transfer of property to the trustee and the acceptance by the trustee of responsibilities and duties arising out of the ordinary law as well as out of the terms of the trust deed itself. When a trust company acts in an agency capacity, the client remains in complete control of the property involved and may issue or change his instructions to the agent at any time.

The law of the Province of Quebec is such that the use of a living trust is restricted. The following remarks are applicable to trusts in the provinces other than Quebec and no attempt has been made to single out those instances in which particular types of trusts or particular provisions would not be effective in Quebec.

2.15 The creation of a trust appeals to the person who, in addition to seeking relief from the day to day administration of property (an objective which can be realized through agency) wishes to be freed from the necessity of making the many and important decisions that the ownership of property entails and is prepared to transfer ownership and control now for the benefit (or partly for the benefit) of other persons. The trust vehicle is particularly attractive to those whose desire it is to give property to others but who wish to impose conditions or delays or withhold control and ownership. These objectives can be realized by transfer to a trustee. If the trustee is a trust

company, the benefits desired are increased by security and professional management.

Noteworthy features of a living trust are the ability:

1. to retain the income and even some elements of control during lifetime as well as a power of revocation while providing for the disposition of the property after death.
2. to ensure the lifetime maintenance, care and general welfare of dependants who are incapable, handicapped, extravagant or improvident.
3. to provide for property to pass to one's beneficiaries after death with the minimum of expense and delay.
4. to benefit others by way of gift in a manner that will ensure that the gifted property will be well managed and will not be dissipated.
5. to benefit successive generations within the limits of the rule against perpetuity without the death duty penalty which accompanies the passing of property by outright and successive gifts.
6. to benefit others in the settlor's lifetime with the property reverting to his estate upon his death.

In many cases trusts are used to achieve tax advantages under the provisions of specific legislation. In such cases, the form of the trust will be determined by the legislation.

2.16 Canadian trust companies also act as trustee of certain special purpose trusts such as:

1. Life Insurance Trusts - These may be funded or unfunded. In the funded trust, property is settled to provide a fund for the payment of life insurance premiums. The proceeds of the policies fall into the fund on the death of the settlor to be dealt with by the trustee in accordance with the terms of the trust. If the trust is unfunded the trustee has no responsibility with regard to the payment of premiums.

2. Business Insurance Trusts or "Buy-Sell" Agreements - The death of a person having a substantial interest in a partnership or a private or family corporation poses special problems. The estate of the deceased shareholder almost invariably wants to market the interest to raise money for death duties or to provide a more diversified estate. The

surviving shareholders do not, as a rule, wish to continue the business in partnership with the estate but lack the funds to purchase the estate's interest. In a business insurance trust each shareholder purchases insurance on the life of his co-shareholders and deposits the policies with the trustee. The agreement requires the estate of a deceased shareholder to sell its interest to the surviving shareholders and requires the latter to buy at a stipulated price or in accordance with a formula. The trustee receives the insurance proceeds on the death of a shareholder and sees that effect is given to the terms of the agreement.

3. Escrow Agreements - Contracts between parties involving a sale or a joint venture often require the deposit of property with a trustee until completion of the sale or the carrying out of the joint venture. In such cases a trust company is employed to hold the property for the protection of all the parties interested. Its duties and responsibilities are covered in an agreement to which it is a party.

2.17 A person (or a corporation) may appoint a trust company to perform any service on his behalf -- the duties and responsibilities undertaken may be myriad in their nature. The trust company's special qualifications for property management and particularly investment management bring it a great many agency appointments.

Two classes of service as investment agent have brought trust companies a substantial and growing volume of business in recent years. They are generally described as safe custody accounts and investment management accounts. The services rendered in each are identical except that in an investment management account, the investment portfolio is kept under constant review and regular investment advice is given upon which the client may act or not as he sees fit. A brief outline of the services rendered in the typical investment management account is as follows:

- custody of investments
- collect and disburse interest, dividends and other income
- supervise investment portfolio, reviewing it regularly and making recommendations for sales and purchases
- purchase and sale of investments as instructed
- maintain proper accounting records
- notification of any re-organization, redemptions, exchanges rights, etc., affecting the securities of which the agent has knowledge, and the execution of instructions with regard thereto.

- prepare and submit annual statements to client
- prepare and file information returns required by the Income Tax Department
- prepare and file personal income tax returns if directed

If the portfolio contains mortgages, the following additional duties are undertaken:

- acquisition of mortgages
- custody of mortgage documents
- compute interest on mortgages as required
- collect mortgage payments as and when due
- verify that adequate fire insurance is maintained on mortgaged premises
- verify payment of real property taxes
- inspect property and arrange renewals

2.18 The fees charged for the services described vary. In Quebec the fees are calculated with reference to income. In most of the other provinces, the fees are computed with reference to capital value and vary according to the amount involved. Fees for safe custody services vary but, generally, a trust company's charge is in the neighbourhood of one-half the charge made for investment management services. Special charges are, of course, made for special services. For example, an extra fee is charged for the completion and filing of a client's income tax returns.

2.19 Another important agency capacity in which trust companies serve is as agent for individuals who are, themselves, acting as executors or trustees. The trust company does everything it would do if it were itself executor. The individuals, however, must make all decisions, but in this regard they are greatly assisted by the advice of the trust company's officers.

There is really no limit to the duties which can be undertaken by trust companies for the convenience of clients. They will act as agent to carry out any legitimate transaction or to administer any kind of property for a fixed or indefinite period. They are particularly well equipped to perform a great variety of services for owners of real estate and this function is dealt with separately below.

(e) Real Estate Services

2.20 The essential element in the well developed real estate services

which trust companies offer is the highly technical skill of real property appraisal. The importance of mortgage investment, both in individual trusts and on guaranteed account, has meant that experts in this field have always been required in trust company operations. The specialized service of the real estate and mortgage departments becomes available for many essential operations in estate administration -- settling death duty valuations, determining sale policy and management of real estate assets and mortgage investments. In the collective trusteeship of guaranteed funds, as well as in individual trusts, a highly skilled organization is necessary for obtaining, making and managing sound mortgage investments.

2.21 Property development has reached unprecedented proportions in all fields of real estate in the last two decades. There is every reason to anticipate that this activity will continue to keep pace with the future growth of Canada. The need for trained personnel in real estate becomes continually more apparent. Huge investment funds are being diverted to real estate for the account of Canadian, U.S. and other foreign investors. These investments take the form of mortgages, lease backs, shopping centres, housing developments (either in single family or multiple units), ground leases, office buildings (some of proportions never before contemplated in Canada), industrial and residential land assemblies and industrial developments generally. In order to participate adequately in these developments, specialists in various fields have been developed and will now be found on the staffs of most, if not all, trust companies.

2.22 As a result, real estate services and experienced personnel of the highest calibre are available to the public at trust company offices across Canada. Services include:

- Collection of rentals
- Leasing of available space and negotiation of renewal leases at current rental rates.
- Employment and supervision of building personnel.
- Maintenance of proper landlord - tenant relations.
- Supervision of repairs, replacements and alterations.
- Periodic inspection of properties
- Purchasing of supplies or service contracts

- Processing and paying accounts
- Providing statements as required by owners.

Fees for such management operations are usually based on local real estate board charges. In addition to the services outlined above, the managing agent is expected to provide advice to his principal on such matters as insurance coverage, real estate assessments, appeals, the effect of new zoning laws, and on alterations or additions which might benefit the owner's interests.

2.23 Real estate brokerage is a wide field embracing, in addition to the normal processing of real estate assets under administration, the buying, selling and leasing of residential, commercial, industrial and income real estate on a strictly brokerage basis. As in the case of property management, fees are based on local real estate board tariffs. Most trust companies are members of local real estate boards and thus are able to participate in the photo-co-operative listing system now in vogue in the majority of Canadian cities, the success of which in the disposal of real property has resulted in a sales volume in 1961 of nearly \$455,000,000 and is increasing every year.

In some companies, sales operations are on a large enough scale to warrant sizeable sales staffs including top flight salesmen specializing in selective fields. Companies with "savings branches" in the larger cities usually locate salesmen at them. The real estate business has become so highly competitive that it is essential for personnel to be constantly improving their knowledge of its various techniques. To this end trust companies encourage their employees to take advantage of the various educational courses offered by local real estate boards either under their own auspices or through Canadian universities, the Canadian Association of Real Estate Boards or the National Association of Real Estate Boards (U.S.) In this manner the trust companies have been able to develop personnel capable of counselling clients in all aspects of real estate practice.

2.24 With the tremendous expansion of building in the residential, commercial and industrial fields since the close of World War 2, the need for trained and qualified appraisers has become more urgent than ever. Huge investments are being made in mortgages and income properties, a sizeable volume of them through the medium of trust companies, acting

for themselves or for the account of others. This has placed a heavy responsibility upon these companies to ensure that expert appraising is available. Trained and qualified appraisers are being developed by the American Institute of Real Estate Appraisers, the Appraisal Institute of Canada, and to a lesser degree by the Society of Residential Appraisers (residential properties only) and the Society of Industrial Realtors (industrial properties only). Individuals holding designations in these appraisal groups are now to be found in the staffs of trust companies. The standards of qualification have become increasingly high and the number of appraisers being qualified is barely keeping pace with the demand for their services. In consequence trust companies are lending every encouragement to members of their staffs to obtain the necessary qualifications.

(f) Investment Powers in Individual Trusteeships*

2.25 Canadian trust companies derive their investment powers from the document that appoints them to act. In the case of estates and continuing testamentary trusts the investment powers must be sought in the will. In a living trust an investment authority is almost invariably included in the document creating the trust. In agencies, the investment power is normally retained by the principal, but certain limited powers may be delegated to the trust company. In those situations where the will or trust document, generally through oversight, omits reference to the matter of investments, the law of the province in which the trust is performed will govern.

2.26 The investment powers conferred on trust companies by the various appointing documents under which they administer estates and living trusts fall, with very few exceptions, into the following categories:

1. Such investments as are permitted under the relevant provincial Trustee Act;
2. Such investments as are eligible under the federal Canadian and British Insurance Companies Act (without applying the quantitative restrictions of the Act);
3. An unrestricted investment power;

* Investment in relation to pension funds is dealt with separately in 2.48 to 2.57

4. A combination of two or more of the above when the appointment places quantitative restrictions on the designated categories.

2.27 Canadian trust companies generally do not at present maintain their records in such a way as to show a breakdown or classification on an aggregate basis of the various types of investment powers under which they are operating. However, as a result of limited sampling tests in representative companies, some general conclusions may be drawn.

(a) The majority of the appointing documents from which the trust companies derive their investment powers and under which they are operating to-day fall within category 1 or 2 above.

(b) There is a clearly defined trend now apparent to enlargement of the investment powers formerly conferred. Modern wills and trust documents commonly confer investment powers which fall in category 3 or 2 above. If this trend persists, therefore, the statement made in (a) above will soon cease to be applicable.

From the standpoint of both the beneficiaries and the trust companies this trend is significant and desirable. A number of reasons may be advanced in explanation of it:

- (i) There is a growing recognition by the public of the highly developed technical knowledge and investment skills that are now available in many trust companies.
- (ii) The experience of investors generally with inflation in the post-war period, with the resulting reduction in purchasing power of the dollar, has demonstrated the inadequacy in this context of fixed income securities as an exclusive investment medium.
- (iii) The trust companies are at present administering a substantial number of estates and trusts for which the governing investment powers were written in the depression of the 30's, or were largely influenced by it. In that environment security of principal was the paramount consideration. It is probable that the majority of estates and trusts now being administered

within the confining restrictions of provincial Trustee Acts had their origin in that era.

- (iv) More people in recent years have accepted the idea of owning common stocks because of the broad advance that has occurred in stock prices generally in the post-war period. The increase in the popularity of mutual funds, with their emphasis on participation in the common shares of growth companies, has no doubt contributed significantly to the broader awareness on the part of the public of common stocks as a desirable investment vehicle over the longer term.

2.29 As mentioned in 2.25 it should be kept in mind that in a number of cases the limited investment powers which control the companies to-day can be attributed to oversight on the part of the testator or settlor in not dealing with the matter of investment authority in the will or trust document. Even today completed wills and, less frequently, trust documents suffering from this defect are regularly deposited with trust companies by persons who have not discussed the appointment with the company, and many of them are corrected when the matter is drawn to the attention of the testator or settlor.

Far more people today discuss the planning of their will with the trust company, and the companies generally recommend an unrestricted investment power. In any event, the greater importance attaching to the subject of investment nowadays is likely to ensure that a larger proportion of wills will contain an appropriate investment power.

2.30 So far as agencies are concerned, the bestowal of any investment authority is unusual. An agency relationship is established with a trust company to assist the principal with the custodianship or investment management of the assets comprising the agency. The principal normally retains final investment authority, and the governing agreement simply provides for the trust company to act in accordance with his instructions.

(g) Provincial Trustee Investment Legislation

2.31 It has been stated earlier that unless a different authority is given in the appointing document, a trustee is limited in its choice of investments to those which are authorized by the law of the

province where the trust is performed.

The schedule which follows outlines in summary the legislation of all the provinces. Broadly speaking, obligations of Canada and the provinces, and, subject to exceptions noted in the schedule, municipal debentures, corporation first mortgage bonds, mortgages on real estate, loan company debentures and trust company guaranteed investment certificates -- this fairly describes the scope of trustee investment authority across Canada. (There is statutory provision in Ontario and Prince Edward Island under which the authority may be widened to the extent prescribed if approved by a Court. It is of no practical significance for the purposes under discussion).

Notable exceptions are provided by Nova Scotia and British Columbia which allow investment in the preferred shares of Canadian corporations, and Nova Scotia is unique in permitting investment in the common shares of Canadian companies, subject to qualitative restrictions up to 15% of the total assets of the trust.

(h) Recommendation for Widening Statutory Powers

2.32 Almost all of this legislation is much too restrictive by modern investment standards and the various Acts obviously bring about inequalities in the investment opportunities available to estates and trusts in different provinces. To remove these regional inequalities and to improve the position of the beneficiaries of all estates and trusts consistent with modern views of prudent investment, it is recommended that all of the provinces should liberalize and standardize the provisions of their trustee acts where necessary to permit investment in:

(The definitions which follow are summarized from R.S. Ontario 1960, Ch. 408, Sec. 27.)

- (1) Obligations of or guaranteed by the Government of Canada
- (2) Obligations of or guaranteed by any province of Canada
- (3) Obligations of or guaranteed by any municipality in Canada including those issued for school purposes or secured by taxes or rates levied under the law of any province
- (4) Obligations of or guaranteed by the Government of the United Kingdom.
- (5) Obligations of or guaranteed by the Government of the United States of America
- (6) First Mortgages, charges or hypothecs on real estate in Canada up to 66 2/3% of the appraised value and NHA insured loans

TRUSTS INVESTMENTS PERMITTED BY THE GOVERNMENTS OF THE PROVINCES OF CANADA
(excluding investments permitted by order of a court).

Schedule to 2.31

	Newfoundland	Prince Edw. Isl.	New Brunswick	Nova Scotia	Quebec	Ontario	Manitoba	Saskatchewan	Alberta	British Columbia
I. Government Bonds and Debentures										
a) Issued or guaranteed by the Government of Canada	yes	yes	yes	yes	yes	yes	yes	yes	yes	yes
b) Issued or guaranteed by any Canadian Province	yes	yes	yes	Province of N.S. only	yes	yes	yes	yes	yes	yes
c) Issued or guaranteed by any Canadian Municipality	City of St. John's only	Capital cities of Canada and Provinces and cities in Ont., Que., N.B. or N.S. with pop'n 50,000 or more	in N.B. only	in N.S. only	in Que. only	yes	in Man. only	in Sask. only	yes	yes
d) Issued by certain approved public service organizations	no	Certain approved P.E.I. hospitals if secured by a mortgage	Trustees of any school district in N.B.	Certain specified religious orders, hospitals, churches, also approved issues of public utilities of municipalities, all within N.S.	School corps in Que. and institutions under "Quebec Public Charities Act"	Any Canadian municipality or Ont. municipality for school or rates or taxes.	School districts in Man. hospital boards under "Health Services Act" or by Greater Winnipeg Water or Sanitary Distr. or Transit Comm.	Only co-op organizations authorized by special Act of Canada or Sask., or approved issues of any school or drainage authority of Sask.	Any hospital or school authority in Alta.	Any school, hospital, irrigation or drainage authority secured by or payable out of taxes in Canada.
e) Issued or guaranteed by the Government of the U.K.	yes	no	no	no	yes	yes	yes	yes	no	yes
f) Issued or guaranteed by the Government of the U.S.A.	no	no	no	no	yes	no	no	yes	no	yes
II. Corporation Bonds and Debentures										
a) Issued by incorporated companies and secured by a mortgage	no	no	yes	yes	no	no	yes	yes	yes	yes
b) Issued by incorporated companies and meeting certain specified conditions	no	no	If approved deposit required	no	those authorized to contract loans for const'n & repair of churches, parsonages & cemeteries.	no	no	no	if approved	required dividend record
III. First Mortgages on Real Estate	In certain Nfld. cities only	In P.E.I. only	yes, to 66% of appraised value	in Canada only, to 75% of appraised value.	In Que. only, to 60% of appraised value	In Canada only & (practically) to 66% of appraised value.	yes, to 50% of appraised value	In Canada only, to 50% of appraised value	yes, to 66% of appraised value	In Canada only, to 60% of appraised value
IV. Guaranteed Investment certificates of trust companies	yes	Eastern Trust Co.	yes	yes	no	yes	yes	no	yes	yes
V. Debentures of Mortgage Loan Companies	approved list	Canada Permanent Mortgage Corp. Acadia Loan Corp. & Eastern Canada Savings and Loan Co.	if approved	if approved	if approved	registered in Province	approved list	if approved	if approved	required certain paid-up capital stock, reserve fund and market value, also quantitative restrictions.
VI. Stock of Canadian Companies	no	no	no	preferred & common stocks subject to quantitative and qualitative restrictions	no	no	no	no	no	preferred stocks subject to quantitative and qualitative restrictions.

Note: NHA insured loans are also "legal" for trustees in some provinces.

- (7) Obligations of a corporation that are secured by the assignment to a trustee of payments that the Government of Canada has agreed to make, sufficient to cover interest and principal
- (8) Debentures of any loan corporation licensed under the law of the province
- (9) Guaranteed investment certificates of any trust company licensed under the law of the province,

and also to permit investment as listed below provided that the aggregate market value of such investments shall not exceed 35% of the market value of the whole trust:

- (10) Obligations of a Canadian corporation secured by a mortgage or hypothec to a trust company upon improved real estate of such corporation or other assets permitted for trustees
- (11) Obligations of a corporation secured by the assignment to a trustee of payments that are payable by a province of Canada sufficient to cover interest and principal
- (12) Obligations of a corporation that has paid, for five years immediately preceding, a dividend equal to the rate upon its preferred shares, or a dividend of at least 4% upon its common shares
- (13) Preferred shares of a corporation which meets the qualitative tests of (12) above
- (14) Fully paid common shares of a corporation that, for seven years immediately preceding, has paid a dividend upon its common shares of at least 4%.

(i) Investment Policies and Practice

2.33 The organization of a trust company investment department and its general procedures are fully outlined in 1.31 to 1.33. But while there can be general investment procedures there can be no general investment policy for individual trusteeships: there must be a policy specifically appropriate to each account.

Investment policy of a trust company in relation to a particular estate or trust is established in the light of the following factors:

- (1) The investment powers conferred by the appointing document or, failing them, by statute.
- (2) The requirements of the beneficiaries. The variations in circumstances and need are unlimited. Moreover, it is the responsibility of the trustee to balance and serve the often conflicting interests of both life tenants and remaindermen. The former most frequently is interested in maximum present income, the latter in longer term growth of capital.
- (3) The impact of income tax and death duties. Lump sum payment

of death duties may require substantial selling to realize cash or may necessitate the maintenance of reasonably short term reserves prior to the date of payment. Payment by instalments at specific intervals may require investment in maturities which will coincide. Income taxes have a continuing effect on policy and are a vital factor in determining the character of the portfolio. For example the 20% dividend tax credit often influences the percentage of assets held in the form of preferred or common stocks.

- (4) In those cases where the will or trust deed appoints personal trustees to act jointly with the corporate trustee, investment policy on occasion may not be that which the trust company would apply if acting alone. Policy may have to be based on compromise, since joint executors must act in concert.

2.34 While generalizations are clearly inappropriate in this area, it may be observed that in recent years trust companies have placed increasing emphasis on expanding the research facilities of their investment departments, with the result that rigorous tests are applied in formulating investment decisions. In the investment of capital funds, bond commitments tend to be concentrated in large and marketable issues of senior governments or well established corporations, and in the case of equities, in the shares of those companies enjoying superior management and demonstrable earning power. As a corollary, capital in estates, trusts and agencies is not usually made available for investment in the undertakings of new and unproven companies even where an unrestricted investment power governs the operation of the particular account. The "prudent man" rule in trust investing imposes an overriding limitation on aggressive action in this investment area.

2.35 The lack of statistics on investment powers in relation to all assets administered, and the essential fact that there can be no general policy in individual trusts makes it very difficult to appraise the effect of trust company investment on the capital market. How is the substantial pool of funds held in estates, trusts and agencies invested? Set out hereunder is a breakdown of the estates, trusts and agencies assets account of all companies licensed to do business in Ontario for the year ending December 31, 1961, showing

the distribution in very broad categories:

	(ooo's omitted)	% of Total
Real Estate	\$ 301,523	3.9
Mortgages and Agreements for sale	641,973	8.3
Bonds	5,514,797	71.5
Stocks	980,216	12.7
Sundry	224,247	2.9
Cash	<u>50,377</u>	<u>0.7</u>
Total	<u>\$7,713,135</u>	<u>100.0</u>

There seems little doubt that these figures reflect the considerable number of trusts governed by documents unaffected by the modern trend discussed in 2.27-8. As to the proportion of mortgages, this warrants special comment.

2.36 While the above breakdown shows that 8.3% of total E T & A assets are represented by mortgages and agreements for sale, it must be noted that agency assets bulk large in this total figure. Inasmuch as mortgages are not a typical agency account holding, it is certain that the percentage holding of mortgages for estates and trusts, if agency assets are excluded, is significantly higher than 8.3%.

A second factor which affects the interpretation of these figures is that most companies avoid mortgage holdings in small estates. Mortgages are a desirable investment where adequate liquidity and sufficient income for the needs of the beneficiaries are afforded by the other holdings in the account. However, mortgage yields may be made available to the small estate through common trust funds, discussed below.

It is accepted trust company practice to make most of their mortgage investments for estates and trusts in conventional, residential mortgages for a five to ten year term. Construction loans (except in large trusts) are not generally considered suitable and this limits investment in NHA loans except by way of purchase. Commercial and industrial mortgages are usually taken only for large estates and trusts.

2.37 As a result of legislation introduced in Ontario in 1950 and 1952 it became possible for a trust company registered in the province to invest trust money in one or more common trust funds administered by the company. Similar legislation now exists in British Columbia

and Alberta. To date five trust companies registered in Ontario have availed themselves of this legislation and have established common trust funds. One such company operates three separate funds, two of which limit investment to Trustee securities and the other is unrestricted. The remaining four companies each operate a single fund limited to such investments as are permitted under the Ontario Trustee Act.

Set out hereunder is a recent breakdown on an aggregate basis of the assets held by these seven separate common trust funds. The number of estates participating is also shown.

<u>Assets Held for Common Trust Funds</u>	
	<u>Total</u>
1. Canada bonds over 3 years maturity	\$ 1,785,296
2. Canada bonds of 3 years maturity and under	531,516
3. Provincial and municipal bonds	9,251,203
4. Corporation bonds	868,780 (1)
5. Other bonds	229,204
6. Mortgages	2,289,272
7. Stocks	344,351 (2)
8. Cash	234,197
	<hr/>
Total assets held for common funds	\$15,533,819 (3)
	<hr/>
Total number of participating accounts	1,833 (3)

2.38 It was expected that through the medium of a common trust fund a number of benefits would result:

- (a) Through the purchase of units in a particular fund a small estate or trust would obtain at no extra cost a broader investment diversification than would otherwise be the case.
- (b) Higher yields would be obtained because of the emphasis placed by the fund on investment in higher coupon bonds (provincials and municipals) and mortgages (see above breakdown).
- (c) From the standpoint of the trust company considerable administrative economies would result, as well as greater flexibility in the management of the individual securities comprising the fund.

Footnote to 2.37

1. Total investment in corporation bonds is divided between loan company debentures held in one only of the six restricted funds reported and other corporation bonds in the one unrestricted fund.
2. Total investment in stocks is confined to the one unrestricted fund reported.
3. Total assets of the one unrestricted fund reported are \$1,330,242 and the total number of participating accounts in it is 119.

In the main these benefits have been realized but the lack of wider acceptance of the common trust fund device by trust companies can be attributed to technical difficulties which have not yet been solved.

2.39 Trust companies do not normally make any active use of the voting power that is in their hands by virtue of their holding of shares in hundreds of corporations for estates, trusts and agencies. Except under unusually critical circumstances, they tend to support the existing management and the status quo. Although it would probably be beneficial if corporate investors played a more dynamic role in relation to the corporations in which they have important investment interests, as a practical matter it is impossible for a trust company to participate actively in the affairs of all those companies whose stock is included in assets under administration.

However, when a trust company holds a substantial stock interest in an individual company, particularly in the case of a private company, it is usual for it to have one of its own officers on the board. In these circumstances, the company's affairs are watched closely. In his capacity as a director, the trust company officer has a dual responsibility: confidential matters relating to the company of which he is a director cannot be disclosed, and the interests of the beneficiaries whom he represents must always be protected. The latter is paramount.

2.40 Opposing interests between groups of clients can arise in circumstances such as where a proposal to alter the capitalization of a company appears to benefit the common shareholders over the preferred shareholders, or where a company makes an offer for the shares of another company which is clearly more favourable to the offering company. In such cases a trust company will generally seek some compromise arrangement which will do justice to both sides so that a single, consistent course may be followed. If this is not practicable the trust company must then take an impartial position and pursue that course of action, in relation to each account, which is in the interest of the individual trusteeship. It is irrelevant that the trustee is taking two different positions.

(j) Pension Trusts

2.41 The rapid growth of industrial pension plans in the past 20 years may be attributed to many factors, among them:

- (a) The tax exempt status of both employer and employee contributions and pension fund investment income.
- (b) The economic prosperity during and after World War 2.
- (c) The pressure of union demands.
- (d) The recognition of the need for old age security, arising out of:
 - (i) The increasing proportion of the population reaching age 65 and increasing life expectancy after age 65.
 - (ii) A greater proportion of the population moving from self-employed to employed occupations, and from rural to urban life.
 - (iii) Acceptance of compulsory savings through payroll deduction, with pension savings representing an important base to all forms of saving.
 - (iv) A transfer of responsibility of care for the aged from the family unit to private and public institutions, or the achievement of self-dependence through formal pension plans and government old age security programs.

2.42 The Canadian employer has alternatives in implementing a pension plan. These fall into the two broad general classifications of "insured" plans underwritten through the Government Annuities Branch and life insurance companies, and "trusteed" plans administered through trustees. Until recent years, the insured plan represented a contractual obligation under which the insurer promised to pay certain predetermined and guaranteed benefits on receipt of the necessary premium payments by the employer. A trusteed plan represents a binding obligation on the part of the trustee to hold and keep invested pension fund moneys placed with it by the employer, for the benefit of the employees and their beneficiaries.

While both insurers and trustees are parties to the operation of pension plans, their roles and responsibilities are quite different. Historically, insurers have been "underwriters" of pension plans. Trustees are administrators of pension trust funds.

2.43 The pension trust fund is established under a trust agreement which spells out the functions and responsibilities of the trustee. Contributions made under the pension plan are accumulated in the trust fund which is held and invested under the management of a trustee or of an incorporated body called a "Pension Fund Society". Pensions are paid directly from the trust fund, but in the case of smaller trusts, annuities may be purchased with moneys from the fund. The status of the plan is periodically reviewed by a qualified actuary to determine whether the fund and current and past service contribution rates are sufficient to meet present and future liabilities as provided under the terms and provisions of the plan.

2.44 The pension plan represents a long term investment of employee and employer contributions toward a continuing goal of pensions for retiring employees. It will be recognized that the cost of a pension is not the same kind of insurable risk which is covered by life insurance. A retired employee cannot live a long time suddenly. The risk is longevity, not mortality, and there is time and means to provide for it. In fact, where a fund is established, the risk of abnormal longevity is offset by abnormal mortality.

It should also be recognized that the successful achievement of the full benefits of the plan for every employee must ultimately depend upon the financial resources of the employer. This applies whether we are considering contributions to a trustee plan or premiums under an insured plan.

2.45 The following table is prepared from Dominion Bureau of Statistics information and shows the distribution between trustee and insured plans at December 31, 1960:

	<u>No. of Plans</u>	<u>% of Whole</u>	<u>No. of Employees</u>	<u>% of Whole</u>	<u>Assets (millions)</u>	<u>% of Whole</u>
Trusteed Pension Plans	1,140	14.8	1,009,127	68.3	3,616	75.0
Life Insurance Group Annuities	6,564	85.2	469,339	31.7	1,208	25.0

("Trusteed Pension Plans" includes funds held in trust by personal trustees and pension fund societies as well as trust companies).

2.46 It is obvious that there are cogent reasons for the increasing popularity of trustee plans. The reasons are not material to this

account. Undoubtedly, however, a cardinal factor has been the availability, as trustee, of the trustee corporation with its financial responsibility and investment skills. Trust companies are ideally equipped to perform this function. Out of the 1,140 trustee pension plans cited in the table above, 903 employ trust companies as trustee and in addition the companies act as agents for the personal trustees of a large proportion of the remaining funds.

2.47 Trust companies have made a number of contributions in the pension field:

- (a) As a result of experience they have been able to offer constructive advice in the early consideration stages prior to the establishment of pension plans. (The over-all responsibility for the development of a plan belongs to the professional pension consultant or consulting actuary.)
- (b) Over the past seven years they have introduced pooled (or commingled) investment funds to provide greater investment diversification for smaller trusts.
- (c) They have established an enviable record of investment performance. This has been particularly notable with the gradual removal of statutory investment restrictions.
- (d) They have produced pension plan studies which have been of considerable assistance to government and private bodies concerned with the broad field of old age security.
- (e) The flexibility afforded by the trustee plan has enabled them, the actuaries and professional consultants to introduce new methods of financing plans and many additional benefits such as widows' pensions, special disability, early retirement and pensions based on average earnings in final years of employment.

(k) Pension Fund Investment

2.48 Investment management is the prime function of the pension fund trustee and investment performance has a significant effect on plan costs or, alternatively, on the ultimate benefits paid to retiring employees.

The investment powers of pension fund trustees are determined by the employer and are embodied in the trust document which appoints the trustee. They will be subject to any overriding restrictions

imposed by government in proper exercise of its jurisdiction. At the present time no provincial government has exercised its power for this purpose but the Canadian Parliament has done so in ruling as to the kinds of plans which are to have the benefit of the "deductible" provisions of the Income Tax Act.

There are to-day only two restrictions:

- (a) Prohibition of investment in the employer's debt obligations.
- (b) Restriction on income from foreign investments to 10% of the income of the fund.

These will be discussed later.

2.49 The large majority of trusts administered by trust companies give the trustee unrestricted investment power. A small minority restrict the trustee to investments authorized by the Canadian and British Insurance Companies Act but without invoking the quantitative restriction. A very few trusts limit investments to those eligible under the applicable provincial Trustee Act. The employer may in a few instances place a quantitative limitation on any one investment category or any one security but this kind of restriction is becoming unusual.

Under most trust agreements, the trustee retains freedom of action within the investment powers provided. Seeking approval on each investment or the exercise of a veto provision has become impractical and has largely been replaced by periodic discussions with the employer regarding the portfolio of the fund and the trustee's investment policy.

2.50 Since 1953 the Dominion Bureau of Statistics and latterly our Association have assembled statistics on the assets of trust funds administered by trust companies. These figures should not be taken as an index of trust company policy in pension fund investment. As explained later, investment was controlled from 1950 to 1957 by federal legislation which imposed the quantitative and qualitative restrictions of the Canadian and British Insurance Companies Act. There is no doubt that this is still reflected in the statistics. Moreover, the more restrictive investment powers which apply in a minority of trusts as described in 2.49 affect a considerable proportion of all pension fund assets and so do conservative policies of some large employers.

In presenting the investment categories of pension fund assets

in column A in the table below, we have also shown in column B statistics compiled by a consulting actuary on pooled funds maintained by three trust companies for pension fund investment.

	<u>A</u>	<u>B</u>
	Pension Fund Assets (Association Statistics of Trust and Agencies)	Assets of pooled investment funds administered by three trust companies
1. Obligations of Governments (Canada, Provincials, Municipals) and their guarantees.	39%	23%
2. Corporation Bonds	35%	35%
3. Mortgages	6%	11%
4. Common Shares	17%	31%
5. Other	3%	--

2.51 Over the last seven years, trust companies have established pooled or commingled trust funds as instruments for pension fund investment. These funds are divided into units and the value of the units is established by valuing the fund at monthly intervals. Units may be purchased or redeemed monthly at the values so established. Interest and dividend income may be distributed or in some cases is capitalized.

2.52 Most companies operate at least two pooled funds, one comprised of fixed interest securities, the other of common stocks. Some trust companies operate pooled funds with investment confined to narrower categories, viz., government, municipal and corporation bonds, mortgages, common stocks. If the trustee is to invest in pooled funds, it must be authorized by the pension trust agreement.

2.53 Employers with limited assets and a modest annual contribution rate have increasingly been authorizing the use of pooled funds to gain greater diversification and investment opportunities previously available only to the larger funds. Currently, over 700 individual funds administered by trust companies as trustee or agent participate in commingled trust funds. They hold units to the total value of \$126,664,659, or approximately 9% of the total pension fund assets so administered.

Large funds do not usually employ pooled fund investment since

they are able to achieve adequate diversification without this method. But some do authorize their use, usually pooled funds confined to mortgages or common stocks.

2.54 The investment of pension fund moneys which they make in pooled funds (where they have investment power to that end), is an indication of trust company policy in pension fund investment and the statistics contained in column B of 2.50 above will therefore be of interest. Investment in these pooled funds is confined to pension funds and this makes possible a general policy, since all participants have common objectives and have no distinctive problems (such as tax status) as do individual trusts.

2.55 Trust companies when so empowered have been substantial buyers of common stocks. In trusts for standard pension plans with unrestricted investment power, the range of investment in common stocks would be 20% to 40% of the total portfolio.

Common stocks are principally purchased for their long term capital growth potential, the capital growth and dividend income being in a sense considered as one. Profits arise from capital gains on sales as well as increasing dividend yield on the original cost of the shares. Low immediate stock yields are offset by investment in higher yielding fixed income securities - municipal and corporation bonds, lease-backs, other revenue real estate and mortgages. Trust companies are substantial investors in these categories.

More and more pension plans are being revised to improve the pension benefits, some to relate benefits to average earnings in the years immediately preceding retirement. This process and consideration of the effects of inflation make it imperative to employ common stock investment as a significant part of any pension fund portfolio.

2.56 Since the preceding material will have conveyed the impression that, in contrast with other individual trusteeships, a "general" policy is possible for all pension fund investment, it is necessary to point out that there are inevitably some qualifications. These involve extremely technical matters which excuse further explanation. In addition there are variations between plans in such matters as the timing and amount of contributions and the anticipated pay-outs.

2.57 Other special features of pension fund investment are:

- (a) There is normally little need for liquidity in the early years of a pension fund when contributions will greatly exceed pay-outs.
- (b) The 20% income tax credit for dividends is not applicable to the deferred taxation of pensions so that preferred stocks are not normally attractive.

(1) Supervision of Pension Funds

2.58 During the period in which the federal Taxation Division has been interested (for revenue reasons) in pension plan supervision, policy has varied widely on investment supervision. From 1950 to 1957, the Minister of National Revenue ruled that investment for pension funds must meet the requirements of the Canadian and British Insurance Companies Act. In 1957 all restriction was dropped except a prohibition on investment in the employer's capital stock or debt obligations. In 1959 this limitation was broadened to allow funds to hold up to 10% of the employer's capital stock not exceeding 10% of the value of the fund, but subject to earnings tests. Currently there is no restriction except the exclusion of the employer's debt obligations and the restriction on foreign income to 10%.

2.59 We strongly support this broadening of investment powers which has already produced great benefit. It has enabled greater diversification and improved yield. Investment in the employer's capital stock has been a much debated issue but we believe that its arbitrary exclusion would be unjustified. Indeed the employer's stock may be of outstanding quality and the investment may improve the job security and opportunity of the employees.

Trust companies are well equipped to apply the "prudent man" rule and arbitrary restrictions can only prejudice the benefits which their experience and skills may return. It is true that personal trustees may not merit equal confidence but we consider that our recommendation which follows will provide an adequate safeguard.

(m) Recommendations

2.60 We therefore recommend that at least once in each three-year period, the employer file with the Department of National Revenue:

- (a) a copy of the latest actuarial report completed by a qualified professional actuary.

- (b) a copy of the most recent financial and asset statement of the fund issued by the trustee (or insurer in the case of Deposit Administration Plans)

The Association feel that it is impossible to establish a satisfactory and valid standard of "solvency" and "adequacy" which would be applicable to every type of pension plan. The report of the actuary is much preferable, in this respect, to any mechanical test or formula.

2.61 We believe that the sanction of publicity might well be sufficient to ensure the sound administration of plans. If thought advisable, however, the Minister might be empowered to deregister a plan unless the material filed indicates that

- (a) the benefits provided by the plan are being properly financed,
- (b) the investment powers conferred upon the trustee are being soundly exercised, and
- (c) the employer is using the appropriate means to produce the benefits of the plan as they become due.

The Department might be given the power to extend the reporting period in particular cases where stability characterized all important factors, but in no case should the reporting period exceed five years.

2.62 For the reasons indicated in 2.59, we consider that investment legislation is inadvisable although the existing exclusion of employer's obligations is fully justified. We recommend removal of the other existing investment restriction which limits the proportion of income from foreign investment. We advance two reasons:

- (a) As there is usually no income advantage from investment in non-Canadian fixed income obligations, it is to investment in common stocks that the restriction really applies. The range of highest quality Canadian common stocks is so limited that it is extremely difficult to obtain adequate diversification over a broad range of industry. (The actual range is broader than that which is open to equity investment by Canadians.) This in turn leads, at times to over-pricing in relation to comparable United States stocks.

(b) The attractiveness of United States investment is already limited by the effect of the 15% withholding tax which cannot be recovered by pension trusts.

2.63 In recent years insurers have been entering into "deposit administration" contracts for pension plans of employers. The 1961 amendment to the Canadian and British Insurance Companies Act permits insurers to employ "segregated funds" for the investment of moneys received under these contracts. In effect the insurer administers the contribution payments in what is, or ought to be, a trust fund in much the same manner as trustee pension funds. The insurance element in some types of these contracts is purely nominal and may provide, for example, that the fund be employed to purchase annuities from other than the contracting insurer.

The trust companies expect to compete successfully with other services and institutions. They recognize that it is in the public interest that new methods and instruments should continually be evolved to achieve the ends of the capital market and particular social objectives. Indeed the essential feature of the investment intermediary function has been the continuous development of new institutions in the private sector to serve new social purposes and increase saving. But they also believe that there is merit in the specialization of function which has characterized the operations of Canadian institutions acting as investment intermediaries. They hope that this breach of the principle will not become a precedent for its repudiation.

TRUST BUSINESS IN CANADA

Section 3 - Collective Trusteeship

The Trust Company as Investment Intermediary

(a) History and Growth of the Intermediary Function

3.01 The history of trust companies in the savings field (and of their loan corporation predecessors in many cases) goes back to the mid-19th century. At December 31, 1899, there were ninety-five loan, loaning land, and trust companies registered in Ontario alone and of these only seven were trust companies. All were in the savings business, accepting deposits and issuing G.I.C.'s or debentures. During this period the commercial banks were much more concerned with commercial banking than with this type of savings. Indeed it was not until 1960 that the banks actively offered and publicized the issue of deposit receipts for moneys. Savings (deposits, G.I.C.'s and debentures) with trust and loan companies in Ontario totalled at this time over \$8 million compared with \$200 million of savings deposits in the chartered banks.

Because of the broader powers granted to trust companies, the majority of the loan companies had their charters changed, while others achieved trust company status through mergers. This trend was further accentuated when, in 1921, legislation was enacted in Ontario clarifying and confirming the right of trust companies to receive, in trust, deposits and other funds for guaranteed investment. It had not been clear under the prior legislation whether receipt of these funds created a trust or merely a debtor-creditor relationship.

3.02 The period from 1900 to 1939 was not one of great growth for trust companies as investment intermediaries, particularly in relation to the chartered banks. Bank deposits had increased to \$2,274 million by 1939 while savings (deposits, G.I.C.'s and debentures) with trust companies reached \$151 million and by loan companies, \$131 million. Since that time the importance of trust companies in their role as promoters and gatherers of savings from the public has increased very considerably.

The schedule which follows shows their progress relative to other institutions accepting savings, over the last ten years. It will be seen that while the rate of growth of savings held by trust companies

Deposits with Institutions Accepting Savings

(in millions of dollars)

Dec. 31st	Chartered Banks - (Total Cdn. Deposits)	Credit Unions (Shares & Deposits)(1)	Quebec Savings Banks (Other Deposits)	Caisses Populaires Savings (2)	Mortgage Loan Companies Reg'd in Ontario (Deposits and Debentures) (3)	Trust Cos. - (Deposits & G.I.C's.)	Government Savings Institutions	Total
1960	12,921 (79.7%)	562 (3.5%)	289 (1.8%)	633 (3.9%)	498 (3.4%)	1,107 (6.8%)	189 (1.2%)	16,199 (100.0%)
1959	12,279	472	270	588	446	888	201	15,144
1958	12,690	413	278	522	396	798	195	15,292
1957	11,407	335	258	452	354	626	192	13,624
1956	11,162	287	252	413	327	593	188	13,222
1955	10,848 (85.0%)	250 (1.9%)	247 (1.9%)	353 (2.8%)	313 (2.5%)	574 (4.5%)	180 (1.4%)	12,766 (100.0%)
1954	9,683	199	227	312	283	503	167	11,374
1953	9,111	166	212	287	241	357	168	10,542
1952	8,636	141	200 E.	255	229	352	158	9,971
1951	7,973 (86.6%)	113 (1.2%)	190 E. (2.1%)	221 (2.4%)	219 (2.4%)	333 (3.6%)	158 (1.7%)	9,207 (100.0%)

Sources (1) - Excludes Caisses Populaires
 - (2) - Quebec Statistical Year Book, 1961
 (3) - Reports of Ontario Registrar of Loan Companies
 Other - Bank of Canada Statistical Summary

and loan companies has been rapid, the amounts held are small in absolute terms relative to personal savings on deposit in the chartered banks. Similarly the schedule indicates that, while total deposits of the chartered banks represent 76.8% of savings held by the institutions shown, that share has decreased with the increase going mainly to the credit unions and trust companies.

Compared with savings deposits only in the chartered banks, the increase from 1939 to 1960 is shown in the table below:

Savings with Three Institutions (in millions of dollars)

	<u>1939</u>	<u>1960</u>	<u>Increase</u>
Chartered Banks	2274	7215	216%
Trust Companies	151	1107	630%
Loan Companies	131	417	220%

(b) Role in the Economy as Intermediary

3.03 The investment intermediary relates the savings of the nation to the demands for capital through the free capital market. The role of the chartered banks in accepting deposits and in supplying short term funds for the productive enterprise of the nation is well known. The role of trust companies is less familiar.

Like the other financial institutions which fulfill the role of investment intermediary in Canada, they are gatherers of savings. Since savings are the supply side of capital accumulation, their importance to any industrial society cannot be over stressed. Certainly the capital equipment which savings have provided is the major contributor to the high standard of living which Canadians enjoy today. Its provision in the past and its supply in the future depend directly on a continuous flow of savings.

3.04 The saving of a nation is done by corporations and persons and it is most important that efficient facilities exist to channel the small savings of private persons into pools of savings which can be used by the groups seeking funds for capital expenditure. In Canada these facilities are provided by the chartered banks, life insurance companies, the new issue market*, managed investment funds, private pension funds,

* To a greater degree than the other intermediaries, the new issue market attracts funds from institutional investors as well as personal savers.

mortgage loan companies, the Caisses Populaires, credit unions and, in their collective trusteeship function, by trust companies. (Outside the private sector in direct government borrowing as by Savings Bonds and various government savings "banks".) All these institutions attract savings in various ways, appealing to differing motives and offering varying forms of claims or contracts. Their competition to secure the largest possible share of savings for their operations provides the stimulus to saving. They "promote" personal savings.

3.05 The trust companies' approach to the role of promoters and gatherers of savings has varied within the industry over the last forty odd years. As explained below, trust companies are empowered to receive funds in trust as deposits or for a fixed term. Some companies have devoted their attention to seeking personal savings; others have also sought deposits from corporations, firms and other organizations. Some companies have tried to restrict their deposits to substantial amounts; others have put a ceiling on the size of accounts they will accept. Some have for a long time offered savings accounts with chequing** privileges; some companies have only recently entered this field. Some companies do not offer chequing privileges on deposits; other do not accept non-chequing deposits.

Again, there are differences in company attitudes to the acceptance of moneys in trust for fixed periods under Guaranteed Investment Certificates. Some companies have actively promoted this field by intensive advertising; others have not emphasized it. Some of the companies did not accept money in this way for a great many years. Whatever variations exist, one element is common. The companies are all promoting savings intensively and in vigorous competition among themselves and with the other institutions which mobilize savings.

** Technically a cheque is a bill of exchange drawn on a bank. The orders drawn by depositors on other institutions may not, perhaps, properly be termed cheques but the public is not concerned with technicalities and there is no doubt that "cheque" is the term of common usage.

3.06 The tables II-19 and 20 at pages II-24 and II-26 of Appendix 2 give an analysis of how savings held by trust companies are owned.

(Note that four loan companies are included in the tables.) They show that 98% of the depositors are persons who together hold 80% of the total amount of deposits. Persons constitute 96% of holders of term obligations (G.I.C.'s, etc.) and hold between them 52% of the total amount of term obligations outstanding. Despite the variations of company practices, the tables indicate that it is persons and in particular the small saver to whom the trust companies appeal most successfully for savings.

3.07 Many persons wish to keep a substantial portion of their assets in a form that will give them ready access to them without loss of capital. This is the market the trust companies have long satisfied. The introduction in recent years of the non-chequable demand deposit account on which a higher rate of interest is paid than on chequing accounts is evidence of the trust companies' willingness to offer the highest prudent rate of interest consistent with the investment restrictions imposed upon them. Their willingness to maintain longer business hours has drawn an increasing number of individual savers to them. This has been accomplished even though trust company offices (until recent "savings branch" development) were not always in the most convenient locations. Of course trust company branch development in no way compares with that of the chartered banks. They do business at 217 offices in all of Canada in contrast to about 5,200 bank premises. While the savings held by trust companies represent a small proportion of the total savings of Canadians, it is clear that the companies' deposit services and guaranteed investment certificates fill a need of the population which is expressed by their continuing growth.

3.08 In addition to promoting and gathering savings, the investment intermediaries have the equally important responsibility of channelling the pools of savings collected by their efforts into their most economic employment. This second aspect of the intermediary's function is equally vital to the economy.

Just as the various institutions which perform this function in Canada offer, in most cases, different attractions to the saver (savings account, life insurance, retirement pension, and interests in

various kinds of collective investment) so also many of them specialize in particular demand areas of the capital market. The new issue market supplies corporate enterprise with equity capital and long term funded debt, the chartered banks finance production with its short term requirements, government institutions help finance the public sector and the mortgage loan institutions the construction industry. The others, including the trust companies, invest in all types of financial assets but the trust companies because of their special skills in the real estate and mortgage business and the nature of their liabilities, are able to direct their investment to a considerable degree into mortgages.

(c) Mortgage Lending in Canada

3.09 With the introduction of the first government housing legislation in Canada in 1935, the pattern of mortgage lending in this country changed.

In the early 1930's life insurance companies furnished about 56% of all mortgage loans held by lending institutions, loan companies 24% and trust companies 12.5%. By 1960 life insurance companies held 60.5%, chartered banks 17.2%, loan companies 8.8% and trust companies 8.2%. The table below shows the increase of mortgage assets held by institutions over the last twenty years together with the relative importance of mortgages in the investment portfolio of each institution:

	1939		1960	
	<u>Mortgage Investment</u>		<u>Mortgage Investment</u>	
	(in millions (as % of		(in millions (as % of	
	of dollars) portfolio)		of dollars) portfolio)	
Life Insurance Companies	391	18.5	3,412	42.4
Loan Companies	154	71.6	495	78.9
Trust Companies	88	40.7	463	37.1
Banks and Other Institutions	<u>45</u>	-	<u>1,273</u>	-
	678		5,643	

During this same period mortgage loans by government increased from \$189 million to \$1,949 million.

3.10 Operating under the Dominion Housing Act commencing in 1935, the loan and trust companies were able to join with the government to a very substantial extent in providing the necessary funds to pull the mortgage and house building industries out of the doldrums of the depression years. The loan term under the Act was 10 years on a 20-year

amortization basis but subsequently material changes were introduced under the National Housing Act. The term and amortization bases were lengthened to 20 years, then 25, 30 and finally 35 years. At the same time the interest rate on Housing Act loans was changed from an agreed upon rate, approximately the same as the free market rate on mortgages, to a fixed rate established by the Governor in Council at a level "not to exceed the rate on long term government bonds by more than $2\frac{1}{4}\%$." Concurrently, the right of the borrower to repay his loan was altered. Under the 1935 Act he could repay at the end of the third year, but under later legislation, this right was extended to permit him to repay at the end of the third year or on any subsequent mortgage anniversary date.

3.11 These changes in the term, rate of interest and right of repayment have made it less and less attractive for loan and trust companies to operate under the National Housing Act. With the stretching out of the term, the mortgagee being locked into the investment but the borrower having the short term right of repayment, and with the low interest rate as compared with the market rate on conventional mortgages, the loan and trust companies were, to a large extent, squeezed out of this large and fast growing part of the mortgage lending industry.

To enable loan and trust companies to resume their former substantial place in the field, it may be necessary to change the existing one-way option which enables the borrower to terminate NHA loans in the event that the level of interest rates declines. Otherwise the loan and trust companies will continue to concentrate on conventional loans on existing and new housing and commercial property.

3.12 In addition to institutional mortgage lending, there are also very substantial sums invested by so-called "private" lenders. A large portion of the funds of this private lenders' sector has its source in estate, trust, and agency funds and pension funds administered by trust companies. This amounted to \$641.9 million in 1961 and brings the total trust company mortgage holding to more than a billion dollars.

(d) Legislative Authority and Regulation

3.13 In 1.03 and 1.04 reference is made to the general objectives and nature of government control over trust companies -- to ensure solvency and the application of trusteeship principles. The difficulty

in generalizing lies in the jurisdiction of the Canadian Parliament and of each of the provinces to incorporate companies and hence, by legislation, to control their own creatures. The legislation in all these jurisdictions in reference to every aspect of trust company legislation varies widely. There is no trust company legislation in the provinces of Newfoundland and Prince Edward Island. They are therefore excluded in the following discussion.

3.14 Regulation of practices to ensure conformity with trustee principles and the imposition of investment and other restrictions are common to all the legislation. In most cases, supervision and enforcement of compliance is entrusted to the Registrar of Trust Companies or some other provincial government officer, usually with wide administrative powers. Companies incorporated by Parliament and by the governments of Nova Scotia, New Brunswick and Manitoba are under the supervision of the Superintendent of Insurance for Canada.

3.15 Legislation prohibiting borrowing by way of debentures is contained in all the Acts except that of New Brunswick.

Restriction on the investment of the company's capital relates to the problem of solvency and was therefore described in broad terms in Section 1 of the Brief since it is of general application to all trust business. In this section, we are dealing with legislation concerning the investment of funds received from the general public for guaranteed investment. Since some of this legislation invokes the restrictions applying to the investment of capital, those restrictions will be dealt with here more fully.

3.16 The broad description in 1.03 which likens the capital investment restrictions to the investment authority of Canadian life insurance companies applies most exactly to the legislation of the Dominion, Ontario and Alberta. Their legislation applies to both company and guaranteed funds. The Ontario authority is the widest of the three by inclusion of a "basket" clause for both company and guaranteed funds. The Dominion Act provides a basket for company funds only and it also restricts investments in corporate obligations and shares to those of Canadian corporations. Almost as broad as the other three, because it extends to corporate obligations and shares subject to earnings tests, is the law in Nova Scotia, Manitoba and Saskatchewan.

All of the Acts which permit investment in corporate securities and shares qualify the authorization by imposing a limitation upon the proportion of guaranteed funds or of capital and guaranteed funds which may be so invested. The proportion varies from 15% to 25%.

- 3.17 The legislation of British Columbia restricts investment of company and guaranteed moneys to government bonds and mortgages while that of Quebec enlarges this narrow authority for the investment of guaranteed funds to include first mortgage bonds of corporations.

Neither New Brunswick nor Quebec deals with the investment of company funds in their trust company statutes.

The schedule which follows shows these provisions in more detail, though in very abbreviated form.

- 3.18 Legislation restricting the investment of trust moneys generally is a subject within the jurisdiction of each province and all of them have laws which apply, of course, to individuals as well as company trustees. These laws are described in 2.31 because of their application to individual trusts. They are also of interest here because the Ontario and Alberta Acts require that 50% of guaranteed funds must be invested in investments authorized for trustees while the legislation of the Dominion, Nova Scotia, Quebec, Manitoba and British Columbia includes trustee investments as legal for guaranteed funds. In some cases, this provides an enlargement of the powers outlined above. New Brunswick confines the investment of guaranteed funds to trustee investments.

- 3.19 The variation in all this legislation is significant because most of the companies operate on a national scale through the "branch" system described in 1.36 to 1.45. A company, federally or provincially incorporated, must conform to its own law of incorporation and also meet the requirements of any province in which it is licensed to do business. The effect of this, as generally interpreted is that with respect to business done in a province which did not incorporate it, a company is governed by the most constraining of the two sets of restrictions which apply to it. There is therefore much to be said for a "uniform" trust companies Act provided the investment powers were at least wide enough to permit investment in corporate obligations and shares subject to suitable earnings tests.

	Parliament of Canada	N.S.	N.B.	P.Q.	Ont. *	Man.	Sask.	Alta. *	B.C.
1. Government Obligations	Co/Gtd	Co/Gtd.		Gtd	Co/Gtd	Co	Co/Gtd	Co/Gtd	Co
2. Mortgages	Co/Gtd	Co		Gtd	Co/Gtd	Co	Co/Gtd	Co/Gtd	Co
3. "Trustee" Investments	Gtd	Gtd	Gtd	Gtd		Gtd			Gtd
4. First Mortgage Bonds of Corporation	Co/Gtd	Co	Gtd	Gtd	Co/Gtd	Co	Co	Co/Gtd	
5. Other Corporate Obligations *** (Earnings Test)	Co/Gtd	Co		Gtd	Co/Gtd	Co	Co	Co/Gtd	
6. Preferred Shares *** (Earnings Test)	Co/Gtd	Co			Co/Gtd	Co	Co	Co/Gtd	
7. Common Shares *** (Earnings Test)	Co/Gtd	Co			Co/Gtd	Co	Co	Co/Gtd	
8. Obligations Secured by Government Subsidy	Co/Gtd				Co/Gtd			Co/Gtd	
9. R. R. Equipment Certs.	Co/Gtd				Co/Gtd			Co/Gtd	
10. Leased Real Estate	Co/Gtd				Co/Gtd			Co/Gtd	
11. N.H.A. Mortgages					Co/Gtd			Co/Gtd	
12. World Bank Obligations					Co/Gtd			Co/Gtd	Co
13. "Basket" Clause	Co				Co/Gtd				
14. Loans on Security of Authorized Investment	Co Gtd	Co/Gtd			Co ** Gtd			Co/Gtd	

* Subject to requirement that 50% of Guaranteed Funds be invested in trustee investments.

** Special margin requirement except for 1, 2 and 4

*** Subject to limited proportion.

**** 1, 2 & 4 only.

Note: The Dominion Act narrows the categories 5, 6 and 7 to Canadian companies.

A far more important feature of uniform legislation, however, would be strong administration of laws regulating the principles and practices of sound trusteeship. Admittedly, such uniform standards are difficult of achievement in ten jurisdictions. This problem suggests an argument in favour of a system of deposit insurance for Canada because it could lead to voluntary submission of companies, wherever incorporated, to a uniform standard of regulation and examination.

3.20 Another type of legislation directed to the security of the savings entrusted to the companies is one which limits the amount of money which may be taken on guaranteed account to a defined ratio with the company's paid up capital and reserves. Parliament limits this to $12\frac{1}{2}$ times for companies with Dominion charter. Of the provinces having a provision of this nature, Manitoba and Saskatchewan have a 5 times restriction and Nova Scotia a 10 times limit. Here, obviously, is another area for uniformity to enable the companies to achieve their maximum usefulness in the whole Canadian economy. The Association considers that a multiplier of 15 should be uniformly adopted.

3.21 Finally, some of the Acts provide what is termed a "liquidity ratio". Alberta and Ontario require a company to keep 20% and British Columbia, 25% of their deposits in investments of a type considered liquid. The main object, no doubt, is to prohibit too high a proportion of investment in mortgages. It may be said of this restriction that the normal rules of prudence applied by the companies are more restrictive.

(e) Operation of Guaranteed Account

3.22 The guaranteed account of trust companies consists of money received from the public in trust on one of the following bases:

(1) As deposits, repayable on demand or after notice. These savings accounts may be either chequable or non-chequable. The depositor receives a pass-book.

(2) As a term investment with the principal repayable on a fixed date and interest at an agreed rate payable half-yearly. The investor receives a guaranteed investment certificate or receipt as evidence of the obligation which is fully registered.

In both cases, the investment made with these funds are segregated from other assets administered by the company and in addition, the trust company guarantees payment of principal and interest and its

After a short rest

the party proceeded to the next stage of the journey.

The road was very good and the weather was fine.

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capital is subject to this liability. (This explains the term "guaranteed account").

3.23 All the larger and most of the smaller trust companies are registered to conduct business in Ontario and, as a result, conform to Ontario law relating to their guaranteed account. In Ontario, a trust company does not have power to take deposits by way of borrowing money or to borrow money by issuing debentures. The Loan and Trust Corporations Act specifically states that money received on either of the bases described above is deemed to be received in trust but the companies are entitled to retain the interest and profits resulting from the investment of such money in excess of the amount of interest payable thereon. The Act requires the trust company to definitely set aside and earmark securities and cash equal to the full aggregate amount of money received in its guaranteed account.

3.24 The growth in moneys received on guaranteed account by the trust companies registered in Ontario is indicated by the following table :

(000 omitted)

<u>Year</u>	<u>Deposits</u>		<u>G.I.C.'s</u>		<u>Total</u>
	<u>Amount</u>	<u>% of Total</u>	<u>Amount</u>	<u>% of Total</u>	<u>Guaranteed Account</u>
1949	\$135,388	47.9	\$147,299	52.1	\$ 282,687
1954	249,448	49.4	254,935	50.6	504,383
1959	337,853	37.6	561,102	62.4	898,955
1960	416,645	37.6	691,984	62.4	1,108,629

(Figures taken from 1961 Report of the Ontario Registrar)

The above figures indicate that while both types of guaranteed funds have increased very greatly, the growth in the term certificates has been at a considerably greater rate than deposits. A more detailed examination of each type of account appears later.

3.25 The importance in our economy of this function of the trust companies has been discussed in (b) above and the relationship of the trust companies to other gatherers of savings in the private sector of the economy is examined in 3.04. While government savings institutions seem to be decreasing in importance, the public sector has a large place in the whole picture. For example, Canada Savings Bond issues outstanding at December 31, 1961 amounted to \$4,079 million.

An indication of the relative importance of some of the com-

petitors for the savings of Canadians is also given in Part II of the Study. (See particularly Table II - 1 of that Study, facing page II-4).

(f) Guaranteed Investment Certificates or Term Guaranteed Funds

3.26 The obligations issued for a fixed term are variously known as guaranteed investment certificates, guaranteed investment receipts, guaranteed trust certificates or receipts, or guaranteed trust investment certificates or receipts. They will be called here "guaranteed investment certificates."

Such certificates are generally issued in minimum ~~amount~~ of at least \$100 although this minimum varies from company to company. Larger denominations are available in multiples of \$100 but they may be issued for any amount. The maximum amounts accepted are established by most companies from time to time and these limits usually are dependent on the investment opportunities available to the particular company.

The number and size of guaranteed investment certificate accounts of trust companies is indicated in Table II - 20, facing page II-26 of the Study. The average value of all term certificates issued by the 17 companies is \$5,302.

3.27 There is no legal limitation on term of guaranteed investment certificates. While in practice they may be for as short a term as thirty days or as long a term as ten years, the most popular term would appear to be from three to five years. It might be noted that the practice differs as between trust companies as to whether a certificate is issued for funds repayable in less than one year. Some companies receive such funds as time deposits and issue a pass-book or just a letter.

Guaranteed investment certificates normally are not redeemable by the company nor can a holder obtain payment prior to maturity. However, some companies undertake to repay, on request, in case of death and may do so in cases of emergency. One company issues guaranteed investment certificates which are cashable at par at any time prior to maturity but, as in the case of Canada Savings Bonds, the rate of interest paid is less than if the certificate is held to maturity. Many companies also issue guaranteed investment certificates on an accumulative interest basis in which the payment of the principal sum deposited plus interest

compounded to maturity is made on the maturity date.

3.28 The rate of interest offered on the certificates depends on the term for which the certificate is issued and on the level of interest rates at the time of issue. The rate offered on maturities of up to one year follows closely the money market rate and the rate on the longer terms tends to be governed by the rate on bonds and first mortgages. Typical rates in May, 1962 are shown in the schedule to 1.60

3.29 Guaranteed investment certificates are fully registered certificates. They are generally purchased because of the attractive interest rates and also because of the willingness of trust companies to make almost any maturity available within the trust company's maximum term to suit the requirements of the investor. This latter factor tends to reduce the need for a secondary market for them.

(g) "Wholesale" Savings

3.30 It has been explained that, in their intermediary function, the trust companies are essentially concerned with gathering personal savings and evidence is adduced in this section which shows that the great portion of G.I.C.'s and the bulk of deposit accounts are held by small personal savers. There is, however, a special function of increasing importance performed by some of the companies with respect to corporation savings. The function differs both on the "supply" side and on the investment side.

3.31 Some trust companies (principally in the large cities) have actively promoted this service to their corporate, institutional and other organization clients for many years. Long before the development of a money market in Canada, they offered their guaranteed investment certificates to these corporate clients for the profitable short term investment of temporarily idle funds, with repayment on specified dates at a guaranteed pre-determined interest rate.

In some cases these funds were accepted as time deposits at a special guaranteed rate of interest. The blocks of money so received were in themselves accumulations of capital -- hence the term "wholesale".

3.32 On the investment side, putting this capital to use was a valuable function in a special area of the capital market, viz., the money market. Even though treasury bills, commercial paper and other short

term obligations (including those of provinces and municipalities) could be purchased directly in the investment market, the trust companies were able to provide a service to their clients which continued to attract their short term funds. Unfortunately the statistics do not disclose what proportion of G.I.C.'s and deposits are represented by these "wholesale" savings. They are quite volatile and are estimated to represent at times as much as 25% of the guaranteed account of the whole industry. The rate of interest paid on this money closely follows the money market. (See Chart II - 1 at page II - 24 of the Study) The funds received are normally invested in short term securities, although companies which receive substantial amounts of these funds can maintain a proportion of longer term investment, much as they do with deposits.

(h) Demand Deposits

3.33 Deposits are normally evidenced by pass-book in which are recorded the deposits, withdrawals and balance.

The rate of interest paid (which varies from company to company) moves with broad changes in interest rates. It has ranged from 2% to 4% in the last 10 years. A survey of rates paid in May, 1962 will be found in the schedule to 1.61. Interest may be calculated on minimum monthly, quarterly or half-yearly balances.

3.34 Full chequing privileges are allowed on depositors' accounts subject to the provision (seldom if ever exercised) that the company may require a specified number of days' notice before withdrawal. There is no uniformity for charges for cheques. Some companies make no charge, others allow one free cheque per month per \$100 balance and charge 10¢ to 15¢ for additional cheques. Others allow a "reasonable" number of cheques before charging for excess debits. The companies want "true savings" accounts and discourage a "current account" use of deposits.

3.35 In recent years special or non-chequing deposit accounts have been developed by a number of companies. Withdrawals and deposits may be made at any time but must be made at the company's office and upon presentation of the pass-book. Interest is allowed on the minimum monthly balance at a rate which is generally 4% and which, according to company practice, may be compounded semi-annually, quarterly or monthly.

3.36 Chequable deposits are much the more popular type of deposit, accounting in 1960 for about 70% (in value) of total deposits. The growth of non-chequable deposits has been rapid in recent years, however, and has out-paced the rate of increase in the other form.

The growth and use of the two types of deposit together with an analysis of accounts by size and by holder is covered in Part II of the Study. Table II-19 at page II-24 indicates that as at October 31, 1961, demand deposits with chequing privileges had an average balance of \$1,445 and those without chequing privileges had an average balance of \$2,000.

(i) Clearing

3.37 Trust companies must have a means of clearing cheques drawn against them which are deposited in chartered banks and cheques drawn against chartered banks which are deposited with trust companies. The chartered banks maintain a clearing house system in each major business centre across Canada. Trust companies are permitted to use this system for a fee.

The trust companies' present use of the chartered banks' clearing system is of real significance in the operation of their business. Deposits constitute about 38% of their guaranteed account and about 70% (by value) of deposit accounts in 1960 were chequable accounts.

3.38 At present, each trust company has an arrangement with a chartered bank or banks to clear its depositors' cheques through the clearing facilities provided by the banks. At each clearing point used, the company must operate a current account in one branch of that chartered bank to which cheques drawn on the trust company may be charged. A company may use the same or a different bank at all clearing house points. If a trust company has a number of offices in one clearing house area, all its clearing must go through the one branch of the bank which is looking after its clearing and the company's cheques will be cleared as a unit and not for its separate offices.

3.39 For the clearing services, the trust company pays a clearing fee of 5¢ for each cheque charged to its account plus \$100 annually together with the following clearing house annual fees:

At Toronto and Montreal	- \$300
At Vancouver	- \$150
At all other points where there is an established clearing house	- \$100

The clearing fee of 5¢ per cheque plus \$100 annually accrues to the bank conducting the account while the clearing house annual fee benefits the clearing house. The clearing house fee of 5¢ per cheque has been effective since November 1, 1958. It was 1¢ or 1½¢ (depending on volume) from November 1, 1950 to 1954 and 2½¢ thereafter to November 1, 1958.

3.40 An exchange charge is also made to trust companies by banks for negotiating cheques on behalf of their depositors if payable at points outside the clearing house area. The charge is 20¢ although, had the bank itself negotiated the cheque for the payee, it would have charged only 15¢. Most trust companies, in fairness to their customers, absorb the excess charge.

3.41 It is essential for the present operation and future growth of the deposit business of trust companies that a comprehensive system of clearing should continue to be available.

(j) Investment Policy

3.42 In the discussion of investment in Section 2, it was made clear that there could be no general investment policy for individual trusts. While a collective trust becomes a unit for the application of policy, it is necessary to point out that, as might be expected, the investment policy of the companies varies sharply. This is discussed in the Study, Appendix 2, at page II-35.

3.43 Guaranteed funds, as stated previously, must be earmarked and set aside, distinct from the company's assets, because they are received in trust. Company funds consist of the paid up capital, surplus and reserves of the trust company. As company funds are the basis of the guarantee for money received on guaranteed account (deposits and G.I.C. liability), the company account may, in that sense, be considered as a reserve. As a result, a company will keep that fact in mind in determining investment policy for both accounts and they should be considered together.

Subject to legal limitations, the governing factors in investment on company and guaranteed account are security, liquidity and yield.

3.44 The most important investment outlets have been government securities and mortgages. Over the past decade, these have accounted for 75% to 85% of total assets in capital and guaranteed account. The main change in the relative importance of asset items since 1951 has been a substantial drop in bond holdings which has been matched by an increase in mortgage holdings. The proportion of other assets has remained about the same. The table below shows the asset holdings for the companies registered in Ontario at December 31, 1950 and December 31, 1960.

Company and Guaranteed Accounts

<u>Assets</u>	<u>December 31, 1950</u>		<u>December 31, 1960</u>	
	Amount (000 omitted)	%	Amount (000 omitted)	%
Bonds				
Canada and U.K.	\$144,297	36.8	\$ 262,217	21.4
Provinces	38,779	9.8	103,598	8.4
Municipal	21,047	5.5	59,128	4.8
Other Bonds	31,085*	7.9	197,839	16.2
Total Bonds	\$235,208	60.0	622,782	50.8
Stocks	8,773*	2.2	37,045	3.0
Mortgages	102,887	26.2	452,686	36.9
Collateral Loans	14,376	3.7	51,564	4.2
Cash	19,841	5.0	38,108	3.2
Other Assets	11,363	2.9	23,697	1.0
Total	\$392,448	100.0	\$1,225,882	100.0

* Stocks held on guaranteed account were included with "Other Bonds" in 1950.

Liabilities

Deposits	\$152,748	39.1	\$ 416,645	34.0
G.I.C's	166,658	42.5	691,984	56.4
Total	\$319,406		\$1,108,629	
Other Guaranteed	312	.1	1,688	.1
On Capital Account	11,531	2.9	15,503	1.3
Shareholders	61,199	15.4	100,062	8.2
Total	\$392,448	100.0	\$1,225,882	100.0

3.45 Of the substantial bond holding (50.8%) shown in the table, by far the largest proportion is Canadian government obligations. As has already been indicated, mortgages are a basic outlet for guaranteed investment. They provide a higher yield than other authorized investments. They also qualify as trustee investments and this is important where, as in Ontario, that qualification is a factor in the regulation of investment of guaranteed funds. A survey of companies indicated a diversity of practice as to the ratio of assets to keep in mortgages. Generally speaking, companies appear to invest most of their G.I.C. money (other than short term) in mortgages. They may also invest part

of their deposit and short term money in mortgages, the proportion depending on the composition of the deposits.

3.46 Liquidity is a prime factor in trust deposits and relates both to deposit withdrawals and to the maturing of G.I.C. obligations. In order to meet these demands, it is essential to have a proportion of short term marketable bonds or other liquid assets. The exact proportion will vary with individual company policy which, in turn, will be governed to some extent by the nature of the deposits and the nature and maturity dates of the G.I.C. liability. Policy here requires a nice balance.

The great bulk of Canadian cash assets of trust companies consists of deposits in chartered banks. Non-cash liquid assets comprise commercial paper, call loans (mainly to security dealers and brokers) treasury bill holdings and short term Canada bonds.

(k) Problems of Mortgage Investment

3.47 In discussing in (c) above the economic significance of mortgage investment, one problem which the companies face in this field was described in 3.10. Some other special investment problems in the mortgage lending area merit examination. The conventional mortgage on residential property, having a term of five years, has been the ideal investment medium since most guaranteed investment certificates are written on a five year term. When the term of the asset and the liability are the same, both can be adjusted at maturity to current rates. The company can compete in the market for renewal of the guaranteed investment certificate. In recent years the large volume of National Housing Act lending with a term of 20 to 30 and even 35 years, has presented strong competitive pressures upon trust companies to make conventional loans for similar long terms. For insurance companies with primarily long term obligations, this has presented no difficulty. It poses a real problem for trust companies particularly in periods of generally low interest rates. The law permits personal mortgagors to repay mortgage loans at the end of 5 years irrespective of the period for which the mortgage is made. As the lender has no similar option to call the loan, he is effectively prevented from obtaining the average of the interest rates prevailing over the longer term. If the original loan is made when interest rates

are low, the borrower has the benefit of the low rate for the full term of the loan. Loans made during periods of high rates are paid off or re-financed (once the first 5 years have elapsed) as soon as interest rates decline. This "heads I win, tails you lose" situation constitutes a real problem to all mortgage lenders but particularly to trust companies who must compete with market rates on a day to day basis to retain funds represented by maturing G.I.C.'s.

3.48 In periods of tight money, there is a tendency for the balance in guaranteed account to decline. In such a period bond prices will likely be down so that a trust company is faced with the alternative of selling bonds at a loss to cover withdrawals of deposits and maturing G.I.C.'s or raising the rate of interest paid on both in order to slow down the withdrawal and attract other moneys. The loss on sale of investments for guaranteed account is a direct charge against income which make companies loath to sell. Instead they tend to raise rates and to curtail mortgage loaning in order that mortgage principal repayments may replenish cash.

When money is easy, there is a tendency for funds to flow to trust companies which, in turn, have to find investments for them or else reduce their rates of interest to slow down the flow of money to them. Often, at such a time, there are not sufficient mortgage investments available to readily take up the inflow of funds.

3.49 In the spring of 1939 the Dominion Government obtained detailed information from mortgage lending institutions for the purpose of setting up a Central Mortgage Bank, but this proposal was apparently dropped with the advent of war. It was contemplated that lending institutions would be able to sell existing mortgages or pledge them against loans at a central mortgage bank sponsored by the government. It would not be necessary for the mortgages to be in good standing or to conform to any particular pattern. Naturally, however, the amount of cash or credit obtained would reflect the condition of the loan and its relation to the value of the security. The purpose of the proposed Central Mortgage Bank was two-fold, to provide backing for companies which required liquidity and could not make cash collections because of depressed economic conditions and to provide a greater amount of loanable capital for the lending insti-

tutions. By working through existing outlets for mortgage funds, the government could obtain the benefits of their experience and efficiency while encouraging house building by an enlarged supply of credit. The lending institutions would have additional funds for investment without the problems of liability management which are involved in seeking new funds.

3.50 The proposed Central Mortgage Bank differed in its concept from the Central Mortgage and Housing Corporation that was set up later. The Corporation was designed primarily for the purpose of stimulating lending on new residential construction with definite and progressive standards of workmanship, materials and planning. Nevertheless, under its Act of Incorporation, the Housing Corporation was given authority to enter into an agreement with a lending institution and lend on the security of or purchase existing mortgages from it. No policy or procedure has been developed in this area of its authorized field of operation. Since the establishment of the Corporation, our Canadian economic situation has been without a major set-back, and it has not been necessary for the lending institutions to look to a "lender of last resort". It is nevertheless important that the basis of operation of this support feature should be definitely established prior to an emergency. Only thus will the institutions have advance knowledge of the assistance it would afford in time of need.

3.51 This support function is important in our economy, providing a parallel to the function of the Federal Home Loan Bank in its loans to the Savings and Loan Associations and the rediscount function of the Federal reserve banks in the United States. Used more broadly, the function could also be useful in employing government funds for conventional mortgage lending indirectly through purchase of mortgages from mortgage loan institutions. The same object could be accomplished by direct loans from CMHC pursuant to authority under its Act of Incorporation, by way of G.I.C. and debenture purchases.

3.52 The creation of a secondary market for mortgages is often advanced as a means of bringing more funds into the mortgage market. Mortgages might well be a more attractive form of investment if they were readily saleable.

A secondary market for NHA insured loans is clearly practical. The system introduced last year by CMHC of quarter-yearly offerings of blocks of NHA mortgages by tender seems to have worked out reasonably well. Distribution could be accelerated and broadened if these insured mortgages could be used as collateral by investment dealers in borrowing from chartered banks so that inventories could be built up and carried by the dealers to be offered to prospective buyers on a continuing basis. There is some indication that investment dealers would be interested and would make a market, both buying and selling. If this became possible, there would be a real secondary market for NHA mortgages. It would necessarily be a market which would deal in blocks and it seems unnecessary to try to extend the market for NHA mortgages to provide facilities for the small investor. His easiest and safest way of participating in mortgage investment is to buy the G.I.C.'s and debentures of the intermediaries.

3.53 A secondary market for conventional (uninsured) mortgages appears a remote possibility. Several years ago an interesting experiment was the planned establishment of a weekly mortgage auction market in Toronto at which mortgages were to be quoted, bought and sold in a manner similar to the trading of shares on the stock exchange. This plan had little success. First of all, there was no demand, or at least the demand was insufficient or was not adequately brought into play. It also appeared that institutional lenders, professional lenders such as lawyers and other agents and even individual investors were not interested in selling mortgages, although they may be interested in buying them. The only group of people who appeared to be interested in selling was probably composed of the numerous former homeowners who had accepted a vendor's second mortgage on selling their residences. Of course, the upward trend of interest rates has made the prices offered for low interest mortgages unattractive to sellers.

3.54 The chief obstacle to a secondary market in conventional mortgages is a group of technical considerations. Some kind of uniformity would have to be introduced before mortgages could be quoted in lots or compared in value. While there is no difficulty

in connection with the general structure of the standard mortgage contract, there is no uniformity in the terms of repayment. There is also a problem of valuation. Two mortgage contracts which appear to be identical in principal amount, interest rate and term may differ in worth because of the underlying security. It would be necessary to establish a central appraisal agency or at least a uniform method of appraisal before mortgages could be readily auctioned. Even after the appraisal of the mortgaged property was standardized, there would remain differences in the value of the covenant -- the borrower's ability and willingness to make payments. Finally, there is the great difficulty in finding true yields on mortgage contracts.

3.55 The technical problems which militate against a market for conventional mortgages would not prevent a comprehensive scheme for purchase by CMHC in pursuing the support aspect of its function, or at least would not prevent loaning against conventional mortgages in a "relief" operation. Valuing a "lot" between two institutions is not a too difficult operation.

56 Another possibility of developing a wholesale market in mortgages lies in the development of mortgage investing companies. A plan was announced a year ago for the establishment of a company with a capitalization of several million dollars to buy blocks of NHA mortgages and finance the purchases through the sale of debentures (or participation certificates of some kind) to the public. It was not really a new idea, but only a specialized form of the existing loan company. Such a company would have to compete with the established loan companies for money, and would probably find difficulty in borrowing at as low a rate, at least in its early years. In addition, it has been the experience of the loan companies that there is not sufficient spread between interest rates on borrowed funds and interest rates on NHA mortgages to provide for costs of operation and a reasonable profit. The proposal endeavoured to overcome this difficulty by projecting an over-all borrowing of some sixty times capitalization, as compared with the present twelve and one-half times capital and reserve restriction on loan companies in Ontario. One stumbling block is the long term

commitment under NHA mortgages at a fixed interest rate combined with short term pay-off privilege of the borrower, mentioned previously.

3.57 A special function of some of the trust companies in the mortgage field is the "warehousing" of mortgages. It is close to an agency function but involves a more extensive service. These companies act as mortgage finders and vendors to large institutional investors. Usually guaranteed funds obtained from depositors are invested against the security of mortgages to builders on new construction, and when the buildings are completed and sold, the mortgages are then sold to the institutional investors.

This warehousing of mortgages is performed by the trust company as principal, but in most cases, general commitments to purchase are provided by the institutions before the trust company begins the operation.

(1) Profits and Reserves

3.58 The Study, Appendix 2, shows that profits on the shareholders' investment are relatively low in trust business. The net income of \$5,823,000 (for the 11 companies included in the Study) on shareholders' investment including all reserves was at the rate of only 6.57% in the year 1960. In relation to total business under administration of \$7,082 million the net income was .0822% -- less than 1/10 of 1%. This is a small percentage having in mind the liabilities and responsibilities assumed in all departments of their business. Moreover, it must be kept in mind that the total of assets administered is understated by the excess of market values over book values in estate, trust, and agency account, and that substantial revenues are obtained from corporate trust and agency business which is not represented in the balance sheet. It is also evident from the Study that during the period from 1950 to 1960 the companies paid out to depositors and G.I.C. holders a continually increasing proportion of the income earned on investments in guaranteed account. Had it not been for the increased scale of operations, profits would have dropped sharply. This reflects the small margin of profit in the industry and the intense

competition existing not only among trust companies but also among all the intermediates who gather savings..

3.59 The increase in the volume of business in the last ten years made it essential to increase reserves against possible losses on the realization of mortgages and other investments. Investment reserves including general reserves and undivided profits were increased by roughly 80% during the period 1950 to 1960. Only slightly more than one-half of this amount was from net income: the balance arose from premium on capital stock issues and profit on the sale of assets. Investment reserves excluding general reserve and undivided profits, increased by just under 60% during the period and in relation to total balance sheet assets (less cash and estate, trust and agency account) actually decreased from 3.9% at December 31, 1951 to 2.1% at December 31, 1960. Included in these figures are the reserves against possible loss on mortgage loans. Although they have increased by almost $2\frac{1}{2}$ times during the period, they have shrunk from 2% to 1.2% of total mortgages held.

3.60 It is noteworthy that even since the change in the Income Tax Act in 1955, permitting small increases on a tax-allowed basis, the percentage has increased by only .3%. Trust companies are, from a tax standpoint, at a distinct disadvantage in the treatment of reserves as compared with others in the savings business, such as the chartered banks and credit unions. In a period of rapidly expanding business, it is most difficult to build up even the most essential reserves on an after-tax basis which requires the appropriation of \$2.00 of earnings for each \$1.00 added to reserves. Some relief in this respect is clearly indicated not only for the protection of the public but also to maintain the flow of mortgage lending by the industry.

3.61 In 1955, after representations to the government extending over a number of years, it was recognized that it was in the public interest to permit the establishment of accumulative reserves against conventional mortgage investments. Section 85G of the Income Tax Act was originally enacted primarily for the protection of the hundreds of thousands of persons who entrust their savings

to the trust companies and the loan companies. The companies had requested a permitted reserve of 5% with annual additions of $\frac{1}{2}$ of 1% based on actual losses incurred on mortgage loans by loan and trust corporations during the period from 1929 to 1948 which amounted to 11.4% (an average of .57% annually). However, the reserve allowed was, and is, limited to 3% of the amount of conventional mortgages at the end of the year and may be increased at the rate of only $\frac{1}{12}$ of this amount each year. This is $\frac{1}{4}$ of 1% of the principal amount which may be deducted from taxable income.

3.62 It will be seen from the survey of the reserves included in the Study by the University of Western Ontario that during the period from 1955 to 1960 the companies have been unable, under the formula, to increase mortgage reserves at a rate even approaching $\frac{1}{4}$ of 1% per annum. This is due to the expanding scale of lending. Moreover, while losses during the period have been negligible, nevertheless, the possibility of future losses has been increased by the steady lengthening of the period of repayment and the increase in the loan amount to 66-2/3% from the former 50%-60%. While both of these developments have benefited the housing market and the borrower, they have added to the risk of loss to the lender. Sizeable losses are experienced only in periods of serious economic dislocation from which the country has been free since the early 1940's. However, prudence demands that reasonable reserves be built up in good years to meet anticipated losses. Moreover, it is in the public interest that the financial institutions of the country be operated on a conservative and sound basis. Experience in the industry indicates that a reserve of 6%, or roughly 50% of the actual losses in 1929-1948 would be reasonable. Unless the permitted rate is increased, it will be many years before this figure can be approached.

3.63 It may be argued that a part of these reserves should be established from earnings remaining after taxes. As will be seen from the tables in the Study by the University of Western Ontario, substantial additional reserves are being built on an "after-tax" basis. But this is necessarily a slow and expensive process. Moreover the loan and trust companies compete for the savings of the public with the chartered banks, life insurance companies, credit unions and the

government itself through Canada Savings Bonds. All of these enjoy a more favourable tax position than loan and trust companies. The credit unions pay no taxes although for all practical purposes they accept deposits in the same way as banks or trust companies. Taxation of the insurance companies in effect permits them to establish investment reserves on virtually a tax-free basis. The chartered banks are also permitted to maintain tax-free reserves on a scale which can be justified to the Minister of Finance. Canada Savings Bonds are sold at rates which do not reflect the real cost to the taxpayer. From the standpoint of equity therefore it would appear that more reasonable tax-allowed reserves should be permitted to loan and trust companies. Moreover the transfer of funds to these reserves is fundamentally only a deferment of tax and in the long run should not affect total tax collections assuming a more or less constant rate of taxation.

Accordingly, it is submitted that the maximum of reserves allowed under Section 85G of the Income Tax Act should be increased from 3% to 6% and the rate of accumulation remain at $1/12$ of this amount per year which would have the effect of increasing it from $\frac{1}{4}$ of 1% to $\frac{1}{2}$ of 1%.

(m) Investment Funds

3.64 It has been emphasized in 1.18 and elsewhere in these pages that investment management is the primary element in the two main functions performed by trust companies. They have evolved a form of organization in which it can operate efficiently and have developed skills which make their services outstanding in this field. It is essential to the performance of their individual trusteeships including pension trusts and to their role as investment intermediary. It has resulted in an increasing demand for their services as investment management agent.

3.65 A new service resulted from the amendment of the Income Tax Act in 1957 which permitted individual taxpayers to deduct from their earned income, within certain limits, amounts paid into Registered Retirement Savings Plans. This measure encouraged many persons, particularly the self-employed, to provide for their retirement years. The saver's contributions are invested by the trustee and used to purchase an annuity at a time elected by the client. While, strictly

speaking, these are individual trusts, their administration and investment and the economic function performed properly bring them under the collective trusteeship heading.

This service affords a natural application of the pooled fund technique applied in pension trust investment. A pooled fund is simply a single trust fund formed to hold the combined assets and future contributions of the participating individual trusts. It affords participants the increased security inherent in diversified investment and maximum liquidity when cash is required. Pooled funds are established for several investment categories. The individual may elect to participate in a pool holding bonds only, common stocks only, or a balanced portfolio. Some companies use G.I.C.'s for fixed income investment. The funds are all, of course, open-end.

3.66 The increasing popularity of mutual and other managed investment funds (they are called investment trusts in the U.K.) has lead some trust companies to offer a service of this type. It rounds out the service which they offer to the small saver. In particular the possibility of participating in equity investment has had an increasing appeal to the public. The trust companies' record of public confidence, statutory regulation under which they operate, their experience in collective trusteeship and their special qualifications for investment management constitute them a suitable instrument for this purpose.

3.67 The funds established are called "Investment Funds". The pooled fund technique is again employed with the price of "units" normally set once a month or quarterly. The price is based on the total market value of all the investments in the Fund's portfolio. This figure is then divided by the number of units outstanding and the result determines the capital unit value at which such units may be acquired and redeemed.

Three companies are now in the field. They each offer a fixed income fund and an equity fund, all of them open-end. An investment management fee is the sole charge. There is no sales charge or "front-end load", because the marketing methods which may make such charges necessary are not used by trust companies. The expenses of the trust company in connection with its operation of the Fund, such

as printing annual reports, monthly statements, office rental, etc., come from the investment management fee and are not an additional charge to the participants. The cost of buying and selling securities held by the Fund, i.e. brokerage commissions, is the only expense category normally charged.

The trust company functions as custodian, registrar, and investment manager of the Fund, values it, prepares income distributions, provides a market for the units and manages its investments. The annual fee for these services ranges from $\frac{1}{2}\%$ to 1% of the market value of the assets of the Fund. The Funds are established in various forms, usually by declaration of trust executed by the trust company.

The Investment Fund constitutes another method by which the trust company, in its intermediary function, can attract savings for employment in the capital market.

3.68 The table below shows the combined assets held in pooled fund investment under retirement savings plans and in investment funds operated by the companies as at December 31, 1961 or nearest valuation date. At that date there were 14,103 participants under personal registered retirement savings plans in operation throughout the industry and there were 3,215 participants in the investment funds operated by three companies.

	Retirement Savings Plans	Investment Funds*
Federal Government and Guaranteed Bonds	1,107,366	801,963
Provincial Government and Guaranteed Bonds	1,590,391	2,616,450
Canadian Municipal Bonds	399,122	975,597
Other Canadian Bonds	3,448,579	3,210,107
Mortgages	721,215	1,885,604
Stocks	20,364,996	5,689,868
Other Assets	2,530,911	850,671
Total	\$30,162,580	\$16,030,260

*Three fixed income funds and three equity funds.

TRUST BUSINESS IN CANADA

Section 4 - Corporate Trusteeships

The Trust Company as an Adjunct to the New Issue Market

4.01 It has been estimated that Canadian industrial and commercial corporations have, during the past ten years, raised the undernoted amounts of capital through funded debt financing and the issue of shares.

<u>Year</u>	<u>Debt Financing</u>	<u>Share Issue</u>
1952	\$ 556,392,000	-
1953	336,295,800	-
1954	594,732,800	\$172,000,000
1955	585,795,900	421,000,000
1956	860,184,400	687,000,000
1957	1,045,004,100	546,000,000
1958	769,155,000	309,000,000
1959	420,052,550	404,000,000
1960	535,011,000	222,000,000
1961	609,909,500	Not yet available

Omitted from the above table are bank borrowings and the immense sums of short term obligations estimated at up to a billion dollars as of April 30, 1962 issued by such companies. Likewise, no reference has been made to the many instances of secondary distributions of shares involving public offerings.

In the raising of the vast majority of this capital, the services of the corporate departments of the Canadian trust companies have played an essential role.

4.02 In the case of secured borrowing, a company by means of a mortgage conveys all or part of its property to the trustee but in trust for the benefit of the holders of the company's obligations issued under the mortgage deed and authenticated by the trustee for purposes of identification. Where unsecured issues are involved, the technique is essentially the same although the deed will not contain any mortgage. Instead, it is likely to contain important covenants on the part of the borrowing company for the protection of those acquiring its obligations.

4.03 At their inception, corporate deeds of trust designated individuals as trustee but it was soon found that trust companies were better equipped to perform these duties. Towards the end of the

nineteenth century, the use of corporations as trustees became common and is now the invariable practice. This is due not only to their permanence and financial responsibility but also to the advantages which result from the appointment of an independent, professional, experienced trustee.

4.04 Whatever the form of the deed, duties are imposed upon the trustee which frequently involve the exercise of important discretions which have few parallels in trust business either as to difficulty or the magnitude of the responsibility. Typical examples are the discretionary release of important parts of the mortgaged premises on such terms as the trustee may determine as not being prejudicial to the interests of the bondholders or the duties falling upon the trustee when an event of default has occurred which the borrowing company may be unable or unwilling to cure.

4.05 Because the nature of the obligations imposed upon the trustee varies so much with the terms of any given issue, it is difficult to state the cost of the service. The principal fees earned by a trustee of a corporate issue are an "Initial Fee" covering the work and responsibility involved in entering into the trusteeship, delivering the deed and issuing the obligations and an "Annual Fee" covering the administrative duties and responsibilities over the life of the issue. These do not cover the issue of additional obligations upon satisfaction of conditions precedent, the disbursement of trust moneys, the operation of sinking funds, redemptions, special services rendered in default situations, reorganizations, the holding of bondholders' meetings and other non-routine matters. In these situations the fees are based upon piece rates or the time and responsibility involved.

4.06 Most Canadian trust deeds contain as part of their security provisions a "floating charge" on the whole undertaking of the borrowing company. Enforcement of this security enables the appointment by the Court of a receiver and manager who continues to operate the undertaking as a going concern pending reorganization or sale as a going concern. This is work which requires highly trained and skilled personnel which only very large companies can maintain and make available at irregular intervals for such extraordinary duties. Canadian trust companies which undertake corporate trusteeships frequently ask for and are normally granted the appointment as receiver and manager in enforcement actions under trust deeds of which they are trustee.

If, following the appointment of a receiver and manager, it transpires that reorganization of the borrowing company is not feasible, nor its sale as a going concern practicable, its operations will be discontinued and thereafter the trust company will act solely as a receiver to bring about the liquidation of the company's assets and the payment out of the proceeds in accordance with the priorities governing the situation.

4.07 The corporate trust departments of the trust companies perform many other functions in addition to those relating to the appointments discussed above, a substantial number of which arise as a direct outcome of these appointments.

(a) Bondholders' Meetings - During the course of a normal trusteeship, a company may, for its corporate purposes, seek a substantial revision of the terms of its trust deed. This will generally involve obtaining the consent of a specified majority of the bondholders whose consent may also be necessary in enforcement proceedings to a proposed plan of reorganization.

In those cases, the trustee will call and supervise the holding of the meeting. This operation is highly technical.

(b) Voting Trusts - These arrangements are common where it is desired that the control of a company and the direction of its business be vested in an individual or group. In such cases, the shares are transferred to trustees (voting trustees) who issue voting trust certificates evidencing the right of the holder to receive the shares represented thereby upon the dissolution of the trust and the surrender of the voting trust certificates. In the meantime, the holders of the voting trust certificates are entitled to such rights and benefits as are specified in the trust agreement.

(c) Escrows and Depositaries - escrow and depositary arrangements for numerous purposes are a substantial source of business and stem largely from the financial responsibility of the trust companies. They are generally very technical and require careful attention to ensure proper fulfilment.

4.08 The increased importance of equity financing has created a problem of real magnitude for most corporations -- that of effecting transfer of its shares. Shareholders and brokers expect prompt attention to transfers of ownership and the issue of new certificates. This situation is reflected in the action of most recognized stock exchanges which have amongst their rules the following as a condition of listing:

- (i) the shares being listed must be transferable
 in the city where the exchange is located.
- (ii) the transfer of listed shares must be completed
 within 48 hours of deposit for transfer.

These requirements, coupled with market activity and the specialized knowledge required to perform the work, can impose heavy burdens on most companies which find it more convenient to employ a trust company to do the job for them. Specialization results in lower cost and greater accuracy.

4.09 Most stock exchanges have the further listing requirement that a trust company be appointed transfer agent of the shares in question. Not only does this inspire investor confidence in the accuracy of share records; it obviates the difficulties which would arise in making deliveries if each company acted as its own transfer agent. It provides means whereby the shares of a company can be interchangeably transferred at a number of points within Canada and the U.S.A. It is estimated that during 1961 Canadian trust companies acting as transfer agents issued a total of 4,111,000 share certificates.

4.10 The principal fees earned by a transfer agent are based upon maintenance of shareholder accounts and the issue of share certificates. Where a co-transfer agent is involved, there is a charge made for daily reports to and from the principal agent.

4.11 The registration of shares is provided for as an insurance against over-issue. The essential duty of the registrar is to counter-sign a new share certificate and thus validate it only when the outstanding stock will not be increased by the issue of that certificate.

4.12 Where the transfer agent keeps the share ledgers of a company, it is most convenient to have that agent also perform a number of related functions.

- (a) Dividend Disbursing - This function speaks for itself and its importance is well demonstrated by the fact that in 1961 Canadian trust companies issued about five million dividend cheques totalling over \$463 million.
- (b) Mailing of Annual Statements, Reports, Proxies, etc. -- This service is based upon the detailed information in the hands of the transfer agent who has machine equipment and other facilities available.
- (c) Proxy Tabulation - Not infrequently the transfer agent is called upon to receive, examine and tabulate proxies to vote at a meeting sent in by shareholders. Again the specialized knowledge of its staff and the time factor involved make the agent's services of great value.
- (d) Scrutineering at Meetings - Particularly in cases where contentious matters are to be voted upon at meetings, the trust company transfer agent is retained to record attendance at meetings and count the votes taken on all polls.
- (e) Changes in Capitalization - Typical examples are partial or total redemptions of preference shares, recapitalization under various plans of reorganization, subscriptions for additional share offerings, and share splits. In all these situations, it is both practical and economical for a company to employ a trust company as agent.

The performance of all these services is based upon the value of specialization. The trust companies use modern special purpose equipment which would be uneconomic for the individual corporation. They are organized to handle irregular work loads which would disorganize routine company operations. Moreover they develop special techniques for dealing with the typical problems which arise in shareholder services and can offer companies an assurance that good shareholder relations will be maintained.

